



Sen. Michael E. Hastings

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LRB099 09692 HLH 36425 a

1 AMENDMENT TO HOUSE BILL 3121

2 AMENDMENT NO. _____. Amend House Bill 3121 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2505-190 as follows:

7 (20 ILCS 2505/2505-190) (was 20 ILCS 2505/39c-4)

8 Sec. 2505-190. Tax Compliance and Administration Fund.

9 (a) Amounts deposited into the Tax Compliance and
10 Administration Fund, a special fund in the State treasury that
11 is hereby created, must be appropriated to the Department to
12 reimburse the Department for its costs of collecting,
13 administering, and enforcing the tax laws that provide for
14 deposits into the Fund. Moneys in the Fund shall consist of
15 deposits provided for in tax laws, reimbursements, or other
16 payments received from units of local government for

1 administering a local tax or fee on behalf of the unit of local
2 government in accordance with the Local Tax Collection Act, or
3 other payments designated for deposit into the Fund.

4 (b) As soon as possible after July 1, 2015, and as soon as
5 possible after each July 1 thereafter, the Director of the
6 Department of Revenue shall certify the balance in the Tax
7 Compliance and Administration Fund as of July 1, less any
8 amounts obligated, and the State Comptroller shall order
9 transferred and the State Treasurer shall transfer from the Tax
10 Compliance and Administration Fund to the General Revenue Fund
11 the amount certified that exceeds \$2,500,000.

12 (Source: P.A. 98-1098, eff. 8-26-14.)

13 Section 10. The Retailers' Occupation Tax Act is amended by
14 changing Section 11 as follows:

15 (35 ILCS 120/11) (from Ch. 120, par. 450)

16 Sec. 11. All information received by the Department from
17 returns filed under this Act, or from any investigation
18 conducted under this Act, shall be confidential, except for
19 official purposes, and any person who divulges any such
20 information in any manner, except in accordance with a proper
21 judicial order or as otherwise provided by law, shall be guilty
22 of a Class B misdemeanor with a fine not to exceed \$7,500.

23 Nothing in this Act prevents the Director of Revenue from
24 publishing or making available to the public the names and

1 addresses of persons filing returns under this Act, or
2 reasonable statistics concerning the operation of the tax by
3 grouping the contents of returns so the information in any
4 individual return is not disclosed.

5 Nothing in this Act prevents the Director of Revenue from
6 divulging to the United States Government or the government of
7 any other state, or any officer or agency thereof, for
8 exclusively official purposes, information received by the
9 Department in administering this Act, provided that such other
10 governmental agency agrees to divulge requested tax
11 information to the Department.

12 The Department's furnishing of information derived from a
13 taxpayer's return or from an investigation conducted under this
14 Act to the surety on a taxpayer's bond that has been furnished
15 to the Department under this Act, either to provide notice to
16 such surety of its potential liability under the bond or, in
17 order to support the Department's demand for payment from such
18 surety under the bond, is an official purpose within the
19 meaning of this Section.

20 The furnishing upon request of information obtained by the
21 Department from returns filed under this Act or investigations
22 conducted under this Act to the Illinois Liquor Control
23 Commission for official use is deemed to be an official purpose
24 within the meaning of this Section.

25 Notice to a surety of potential liability shall not be
26 given unless the taxpayer has first been notified, not less

1 than 10 days prior thereto, of the Department's intent to so
2 notify the surety.

3 The furnishing upon request of the Auditor General, or his
4 authorized agents, for official use, of returns filed and
5 information related thereto under this Act is deemed to be an
6 official purpose within the meaning of this Section.

7 Where an appeal or a protest has been filed on behalf of a
8 taxpayer, the furnishing upon request of the attorney for the
9 taxpayer of returns filed by the taxpayer and information
10 related thereto under this Act is deemed to be an official
11 purpose within the meaning of this Section.

12 The furnishing of financial information to a municipality,
13 upon request of the Chief Executive thereof, is an official
14 purpose within the meaning of this Section, provided the
15 municipality agrees in writing to the requirements of this
16 Section. Information provided to municipalities under this
17 paragraph shall be limited to: (1) the business name; (2) the
18 business address; (3) the standard classification number
19 assigned to the business; (4) net revenue distributed to the
20 requesting municipality that is directly related to the
21 requesting municipality's local share of the proceeds under the
22 Use Tax Act, the Service Use Tax Act, the Service Occupation
23 Tax Act, and the Retailers' Occupation Tax Act distributed from
24 the Local Government Tax Fund, and, if applicable, any locally
25 imposed retailers' occupation tax or service occupation tax;
26 and (5) ~~(4)~~ a listing of all businesses within the requesting

1 municipality by account identification number and address. On
2 and after July 1, 2015, the furnishing of financial information
3 to municipalities under this paragraph may be by electronic
4 means.

5 Information so provided shall be subject to all
6 confidentiality provisions of this Section. The written
7 agreement shall provide for reciprocity, limitations on
8 access, disclosure, and procedures for requesting information.

9 The Department may make available to the Board of Trustees
10 of any Metro East Mass Transit District information contained
11 on transaction reporting returns required to be filed under
12 Section 3 of this Act that report sales made within the
13 boundary of the taxing authority of that Metro East Mass
14 Transit District, as provided in Section 5.01 of the Local Mass
15 Transit District Act. The disclosure shall be made pursuant to
16 a written agreement between the Department and the Board of
17 Trustees of a Metro East Mass Transit District, which is an
18 official purpose within the meaning of this Section. The
19 written agreement between the Department and the Board of
20 Trustees of a Metro East Mass Transit District shall provide
21 for reciprocity, limitations on access, disclosure, and
22 procedures for requesting information. Information so provided
23 shall be subject to all confidentiality provisions of this
24 Section.

25 The Director may make available to any State agency,
26 including the Illinois Supreme Court, which licenses persons to

1 engage in any occupation, information that a person licensed by
2 such agency has failed to file returns under this Act or pay
3 the tax, penalty and interest shown therein, or has failed to
4 pay any final assessment of tax, penalty or interest due under
5 this Act. The Director may make available to any State agency,
6 including the Illinois Supreme Court, information regarding
7 whether a bidder, contractor, or an affiliate of a bidder or
8 contractor has failed to collect and remit Illinois Use tax on
9 sales into Illinois, or any tax under this Act or pay the tax,
10 penalty, and interest shown therein, or has failed to pay any
11 final assessment of tax, penalty, or interest due under this
12 Act, for the limited purpose of enforcing bidder and contractor
13 certifications. The Director may make available to units of
14 local government and school districts that require bidder and
15 contractor certifications, as set forth in Sections 50-11 and
16 50-12 of the Illinois Procurement Code, information regarding
17 whether a bidder, contractor, or an affiliate of a bidder or
18 contractor has failed to collect and remit Illinois Use tax on
19 sales into Illinois, file returns under this Act, or pay the
20 tax, penalty, and interest shown therein, or has failed to pay
21 any final assessment of tax, penalty, or interest due under
22 this Act, for the limited purpose of enforcing bidder and
23 contractor certifications. For purposes of this Section, the
24 term "affiliate" means any entity that (1) directly,
25 indirectly, or constructively controls another entity, (2) is
26 directly, indirectly, or constructively controlled by another

1 entity, or (3) is subject to the control of a common entity.
2 For purposes of this Section, an entity controls another entity
3 if it owns, directly or individually, more than 10% of the
4 voting securities of that entity. As used in this Section, the
5 term "voting security" means a security that (1) confers upon
6 the holder the right to vote for the election of members of the
7 board of directors or similar governing body of the business or
8 (2) is convertible into, or entitles the holder to receive upon
9 its exercise, a security that confers such a right to vote. A
10 general partnership interest is a voting security.

11 The Director may make available to any State agency,
12 including the Illinois Supreme Court, units of local
13 government, and school districts, information regarding
14 whether a bidder or contractor is an affiliate of a person who
15 is not collecting and remitting Illinois Use taxes for the
16 limited purpose of enforcing bidder and contractor
17 certifications.

18 The Director may also make available to the Secretary of
19 State information that a limited liability company, which has
20 filed articles of organization with the Secretary of State, or
21 corporation which has been issued a certificate of
22 incorporation by the Secretary of State has failed to file
23 returns under this Act or pay the tax, penalty and interest
24 shown therein, or has failed to pay any final assessment of
25 tax, penalty or interest due under this Act. An assessment is
26 final when all proceedings in court for review of such

1 assessment have terminated or the time for the taking thereof
2 has expired without such proceedings being instituted.

3 The Director shall make available for public inspection in
4 the Department's principal office and for publication, at cost,
5 administrative decisions issued on or after January 1, 1995.
6 These decisions are to be made available in a manner so that
7 the following taxpayer information is not disclosed:

8 (1) The names, addresses, and identification numbers
9 of the taxpayer, related entities, and employees.

10 (2) At the sole discretion of the Director, trade
11 secrets or other confidential information identified as
12 such by the taxpayer, no later than 30 days after receipt
13 of an administrative decision, by such means as the
14 Department shall provide by rule.

15 The Director shall determine the appropriate extent of the
16 deletions allowed in paragraph (2). In the event the taxpayer
17 does not submit deletions, the Director shall make only the
18 deletions specified in paragraph (1).

19 The Director shall make available for public inspection and
20 publication an administrative decision within 180 days after
21 the issuance of the administrative decision. The term
22 "administrative decision" has the same meaning as defined in
23 Section 3-101 of Article III of the Code of Civil Procedure.
24 Costs collected under this Section shall be paid into the Tax
25 Compliance and Administration Fund.

26 Nothing contained in this Act shall prevent the Director

1 from divulging information to any person pursuant to a request
2 or authorization made by the taxpayer or by an authorized
3 representative of the taxpayer.

4 (Source: P.A. 98-1058, eff. 1-1-15.)

5 Section 15. The Local Tax Collection Act is amended by
6 changing Section 1 as follows:

7 (35 ILCS 720/1) (from Ch. 120, par. 1901)

8 Sec. 1. (a) The Department of Revenue and any unit of local
9 government ~~county or municipality~~ may agree to the Department's
10 collecting, and transmitting back to the unit of local
11 government ~~such county or municipality~~, any tax lawfully
12 imposed by that unit of local government ~~county or~~
13 ~~municipality~~, the subject of which is similar to that of a tax
14 imposed by the State and collected by the Department of
15 Revenue, unless the General Assembly has specifically required
16 a different method of collection for such tax. However, the
17 Department may not enter into a contract with any unit of local
18 government ~~municipality or county~~ pursuant to this Act for the
19 collection of any tax based on the sale or use of tangible
20 personal property generally, not including taxes based only on
21 the sale or use of specifically limited kinds of tangible
22 personal property, unless the ~~municipal or county~~ ordinance
23 adopted by the unit of local government imposes a sales or use
24 tax which is substantively identical to and which contains the

1 same exemptions as the taxes imposed by the unit of local
2 government's municipalities'—or—counties' ordinances
3 authorized by the Home Rule or Non-Home Rule Municipal or
4 County Retailers' Occupation Tax Act, the Home Rule or Non-Home
5 Rule or the Municipal or County Use Tax, or any other
6 Retailers' Occupation Tax Act or Law that is administered by
7 the Department of Revenue, as interpreted by the Department
8 through its regulations as those Acts and as those regulations
9 may from time to time be amended.

10 (b) Regarding the collection of a tax pursuant to this
11 Section, the Department and any person subject to a tax
12 collected by the Department pursuant to this Section shall, as
13 much as practicable, have the same rights, remedies,
14 privileges, immunities, powers and duties, and be subject to
15 the same conditions, restrictions, limitations, penalties,
16 definitions of terms and procedures, as those set forth in the
17 Act imposing the State tax, the subject of which is similar to
18 the tax being collected by the Department pursuant to this
19 Section. The Department and unit of local government ~~county or~~
20 ~~municipality~~ shall specifically agree in writing to such
21 rights, remedies, privileges, immunities, powers, duties,
22 conditions, restrictions, limitations, penalties, definitions
23 of terms and procedures, as well as any other terms deemed
24 necessary or advisable. All terms so agreed upon shall be
25 incorporated into an ordinance of such unit of local government
26 ~~county or municipality,~~ and the Department shall not collect

1 the tax pursuant to this Section until such ordinance takes
2 effect.

3 (c) (1) The Department shall forthwith pay over to the
4 State Treasurer, ex officio, as trustee, all taxes and
5 penalties collected hereunder. On or before the 25th day of
6 each calendar month, the Department shall prepare and certify
7 to the Comptroller the disbursement of stated sums of money to
8 named units of local government ~~cities and counties~~ from which
9 retailers or other taxpayers have paid taxes or penalties
10 hereunder to the Department during the second preceding
11 calendar month.

12 (i) The ~~an~~ amount to be paid to each unit of local
13 government ~~county and municipality, which~~ shall equal the taxes
14 and penalties collected by the Department for the unit of local
15 government ~~such county or municipality~~ pursuant to this Section
16 during the second preceding calendar month (not including
17 credit memoranda), plus an amount the Department determines is
18 necessary to offset any amounts which were erroneously paid to
19 a different taxing body, and not including (i) an amount equal
20 to the amount of refunds made during the second preceding
21 calendar month by the Department of behalf of such county or
22 municipality and (ii) any amount which the Department
23 determines is necessary to offset any amounts which are payable
24 to a different taxing body but were erroneously paid to the
25 municipality or county, less 2% of the balance, or any greater
26 amount of the balance as provided in the agreement between the

1 Department and the unit of local government required under this
2 Section, which sum shall be retained by the State Treasurer.
3 ~~total amount of taxes and penalties collected by the Department~~
4 ~~for such county or municipality pursuant to this Section or the~~
5 ~~actual cost of collection of such taxes and penalties~~
6 ~~determined pursuant to the agreement described in subsection~~
7 ~~(b), whichever is less, which shall be retained by the State,~~
8 ~~and~~

9 (ii) With respect to the total amount to be retained by the
10 State Treasurer pursuant to subparagraph (i), the Department,
11 at the time of each monthly disbursement to the units of local
12 government, shall prepare and certify to the Comptroller the
13 amount so retained by the State Treasurer, which shall be
14 transferred such amount to be deposited into the Tax Compliance
15 and Administration General Revenue Fund of the State treasury
16 and used by the Department, subject to appropriation, to cover
17 the costs incurred by the Department in collecting ~~such~~ taxes
18 and penalties.

19 (2) Within 10 ~~7~~ days after receiving the certifications
20 described in paragraph (1), the Comptroller shall issue orders
21 for payment of the amounts specified in subparagraph (i) of
22 paragraph (1).

23 (d) Any ~~home rule~~ unit of local government which imposes a
24 tax collected by the Department pursuant to this Section
25 ~~substantially similar to a State imposed tax, or which imposes~~
26 ~~a tax which is intended to be collected from a retail purchaser~~

1 ~~of goods or services at the same time a similar State tax is~~
2 ~~also collected,~~ must file a certified copy of the ordinance
3 imposing the tax with the Department within 10 days after its
4 passage. Beginning on the effective date of this amendatory Act
5 of the 99th General Assembly, an ordinance or resolution
6 imposing or discontinuing a tax collected by the Department
7 under this Section or effecting a change in the rate thereof
8 shall either (i) be adopted and a certified copy thereof filed
9 with the Department on or before the first day of April,
10 whereupon the Department shall proceed to administer and
11 enforce the tax imposition, discontinuance, or rate change as
12 of the first day of July next following the adoption and
13 filing; or (ii) be adopted and certified copy thereof filed
14 with the Department on or before the first day of October,
15 whereupon the Department shall proceed to administer and
16 enforce the tax imposition, discontinuance, or rate change as
17 of the first day of January next following the adoption and
18 filing. ~~No such ordinance shall become effective until it is so~~
19 ~~filed. Any home rule unit of local government which has enacted~~
20 ~~such an ordinance prior to the effective date of this Act shall~~
21 ~~file a copy of such ordinance with the Department within 90~~
22 ~~days after the effective date of this Act.~~

23 (e) It is declared to be the law of this State, pursuant to
24 paragraph (g) of Section 6 of Article VII of the Illinois
25 Constitution, that this amendatory Act of 1988 is a denial of
26 the power of a home rule unit to fail to comply with the

1 requirements of paragraphs (d) and (e) of this Section.

2 (Source: P.A. 85-1215.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".