



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2143

by Rep. William Davis

SYNOPSIS AS INTRODUCED:

20 ILCS 2705/2705-615 new
35 ILCS 505/8

from Ch. 120, par. 424

Amends the Motor Fuel Tax Law. Provides that the Department of Revenue shall prepare a list of all affected municipalities, counties, and road districts receiving more than \$1,500,000 in motor fuel tax revenue in the previous year. Provides that no municipality, county, or road district that received distributions totaling more than \$2,000,000 in any State fiscal year beginning on or after July 1, 2019 shall receive any funds on or after July 1 of the third fiscal year to occur after the fiscal year in which the municipality, county, or road district received distributions totaling more than \$2,000,000 unless, on or before June 30 of the second fiscal year the municipality, county, or road district received distributions totaling more than \$2,000,000, that municipality, county, or road district implements a disadvantaged business enterprise program setting goals for the inclusion of minority, veteran, and female-owned businesses in the procurement of all contracts. Amends the Department of Transportation Law of the Civil Administrative Code of Illinois. Provides that the Department of Transportation shall publish and maintain on its website all relevant data for establishing regional goals for affected municipalities, counties, and road districts to implement business enterprise programs. Effective immediately.

LRB101 08211 HLH 53277 b

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 Department of Transportation Law of the
5 Civil Administrative Code of Illinois is amended by adding
6 Section 2705-615 as follows:

7 (20 ILCS 2705/2705-615 new)

8 Sec. 2705-615. Business enterprise program data. The
9 Department of Transportation shall publish and continuously
10 maintain on its website all relevant data in its possession for
11 establishing regional goals for affected municipalities,
12 counties, and road districts to implement business enterprise
13 programs as provided in Section 8 of the Motor Fuel Tax Law,
14 including: (i) the Department's most recent disparity study;
15 (ii) all other studies and data collected and generated for the
16 Department's calculation of goals for its disadvantaged
17 business enterprise program; and (iii) any lists of available
18 contractors and subcontractors that participate in the
19 Department's disadvantaged business enterprise program. This
20 data shall be published as a public resource to affected
21 municipalities, counties, and road districts but in no
22 circumstance shall the Department be responsible in any way for
23 the implementation of a local disadvantaged business

1 enterprise program.

2 Section 10. The Motor Fuel Tax Law is amended by changing
3 Section 8 as follows:

4 (35 ILCS 505/8) (from Ch. 120, par. 424)

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

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

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

21 (c) \$3,500,000 shall be transferred each month to the Grade
22 Crossing Protection Fund to be used as follows: not less than
23 \$12,000,000 each fiscal year shall be used for the construction
24 or reconstruction of rail highway grade separation structures;

1 \$2,250,000 in fiscal years 2004 through 2009 and \$3,000,000 in
2 fiscal year 2010 and each fiscal year thereafter shall be
3 transferred to the Transportation Regulatory Fund and shall be
4 accounted for as part of the rail carrier portion of such funds
5 and shall be used to pay the cost of administration of the
6 Illinois Commerce Commission's railroad safety program in
7 connection with its duties under subsection (3) of Section
8 18c-7401 of the Illinois Vehicle Code, with the remainder to be
9 used by the Department of Transportation upon order of the
10 Illinois Commerce Commission, to pay that part of the cost
11 apportioned by such Commission to the State to cover the
12 interest of the public in the use of highways, roads, streets,
13 or pedestrian walkways in the county highway system, township
14 and district road system, or municipal street system as defined
15 in the Illinois Highway Code, as the same may from time to time
16 be amended, for separation of grades, for installation,
17 construction or reconstruction of crossing protection or
18 reconstruction, alteration, relocation including construction
19 or improvement of any existing highway necessary for access to
20 property or improvement of any grade crossing and grade
21 crossing surface including the necessary highway approaches
22 thereto of any railroad across the highway or public road, or
23 for the installation, construction, reconstruction, or
24 maintenance of a pedestrian walkway over or under a railroad
25 right-of-way, as provided for in and in accordance with Section
26 18c-7401 of the Illinois Vehicle Code. The Commission may order

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

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

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

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

10 (3) refunds provided for in Section 13, refunds for
11 overpayment of decal fees paid under Section 13a.4 of this
12 Act, and refunds provided for under the terms of the
13 International Fuel Tax Agreement referenced in Section
14 14a;

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

1 practical, during the period July 1, 2004 through June 30,
2 2012, and \$30,000,000 on June 1, 2013, or as soon
3 thereafter as may be practical, and \$15,000,000 on July 1
4 and October 1, or as soon thereafter as may be practical,
5 during the period of July 1, 2013 through June 30, 2015,
6 for the administration of the Vehicle Emissions Inspection
7 Law of 2005, to be transferred by the State Comptroller and
8 Treasurer from the Motor Fuel Tax Fund into the Vehicle
9 Inspection Fund;

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

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

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

21 (1) Until January 1, 2000, 58.4%, and beginning January
22 1, 2000, 45.6% shall be deposited as follows:

23 (A) 37% into the State Construction Account Fund,
24 and

25 (B) 63% into the Road Fund, \$1,250,000 of which
26 shall be reserved each month for the Department of

1 Transportation to be used in accordance with the
2 provisions of Sections 6-901 through 6-906 of the
3 Illinois Highway Code;

4 (2) Until January 1, 2000, 41.6%, and beginning January
5 1, 2000, 54.4% shall be transferred to the Department of
6 Transportation to be distributed as follows:

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

8 (B) 16.74% to the counties of the State having
9 1,000,000 or more inhabitants,

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

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

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

1 determined by the last Federal census preceding any
2 apportionment, the apportionment to such municipality shall be
3 in accordance with any census taken by such municipality. Any
4 municipal census used in accordance with this Section shall be
5 certified to the Department of Transportation by the clerk of
6 such municipality, and the accuracy thereof shall be subject to
7 approval of the Department which may make such corrections as
8 it ascertains to be necessary.

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

24 As soon as may be after the first day of each month, the
25 Department of Transportation shall allot to the several
26 counties their share of the amount apportioned for the use of

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

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

20 The Department shall prepare a continuous list (which may
21 include a link to information already maintained on the
22 Department's website) of all affected municipalities,
23 counties, and road districts receiving more than \$1,500,000 in
24 motor fuel tax revenue in the previous fiscal year; the
25 Department shall publish and continuously maintain the list on
26 its website. Notwithstanding any other provision of law, no

1 municipality, county, or road district that received
2 distributions under this subsection (e) totaling more than
3 \$2,000,000 in any State fiscal year beginning on or after July
4 1, 2019 shall receive any funds under this subsection (e) on or
5 after July 1 of the third fiscal year to occur after the fiscal
6 year in which the municipality, county, or road district
7 received distributions totaling more than \$2,000,000 unless,
8 on or before June 30 of the second fiscal year after the
9 municipality, county, or road district received distributions
10 totaling more than \$2,000,000, that municipality, county, or
11 road district implements a disadvantaged business enterprise
12 program setting goals for the inclusion of minority, veteran,
13 and female-owned businesses in the procurement of all
14 contracts, including, but not limited to, contracts funded
15 using motor fuel tax revenue. Those programs shall (i) cover
16 both professional services and construction procurement and
17 (ii) be substantially similar to the State's disadvantaged
18 business enterprise program for the region in which the
19 municipality, county, or road district is located, as
20 established in the Department's most recent disparity study.
21 The Department of Transportation shall prepare a list of all
22 affected municipalities, counties, and road districts and
23 shall publish the list on its website. Any municipality,
24 county, or road district that is subject to this paragraph may
25 adopt processes requiring disadvantaged business enterprises
26 and non-disadvantaged business enterprises to provide

1 additional documentation and assurances that the enterprise is
2 qualified to complete the necessary work of the contract. No
3 such municipality, county, or road district may adopt separate
4 standards for disadvantaged business enterprises and
5 non-disadvantaged business enterprises. Any additional
6 processes must conform with 49 C.F.R. 26. This amendatory Act
7 of the 101st General Assembly does not apply to any
8 municipality, county, or road district that has established a
9 disadvantaged business enterprise program prior to the
10 effective date of this amendatory Act of the 101st General
11 Assembly, as required by regulations adopted by the United
12 States Department of Transportation at 49 C.F.R. 26.

13 With respect to municipalities, counties, and road
14 districts that are subject to the disadvantaged business
15 enterprise program requirements of the preceding paragraph,
16 when a disadvantaged business enterprise bid price is more than
17 5% above the non-disadvantaged business enterprise bid price,
18 the municipality, county, or road district may grant a goal
19 modification if it determines that good faith efforts have been
20 met on the part of the prime contractor in accordance with 49
21 C.F.R. 26.

22 Prior to 2011, if any road district has levied a special
23 tax for road purposes pursuant to Sections 6-601, 6-602 and
24 6-603 of the Illinois Highway Code, and such tax was levied in
25 an amount which would require extension at a rate of not less
26 than .08% of the value of the taxable property thereof, as

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

1 less than any other levy for road and bridge purposes, then any
2 allotment under this Section shall be determined by the other
3 levy for road and bridge purposes.

4 Prior to 2011, if a township has transferred to the road
5 and bridge fund money which, when added to the amount of any
6 tax levy of the road district would be the equivalent of a tax
7 levy requiring extension at a rate of at least .08%, 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, such transfer, together with any such tax
11 levy, shall be deemed a proper compliance with this Section and
12 shall qualify the road district for an allotment under this
13 Section.

14 In counties in which a property tax extension limitation is
15 imposed under the Property Tax Extension Limitation Law, road
16 districts may retain their entitlement to a motor fuel tax
17 allotment or, beginning in 2011, their entitlement to a full
18 allotment if, at the time the property tax extension limitation
19 was imposed, the road district was levying a road and bridge
20 tax at a rate sufficient to entitle it to a motor fuel tax
21 allotment and continues to levy the maximum allowable amount
22 after the imposition of the property tax extension limitation.
23 Any road district may in all circumstances retain its
24 entitlement to a motor fuel tax allotment or, beginning in
25 2011, its entitlement to a full allotment if it levied a road
26 and bridge tax in an amount that will require the extension of

1 the tax against the taxable property in the road district at a
2 rate of not less than 0.08% of the assessed value of the
3 property, based upon the assessment for the year immediately
4 preceding the year in which the tax was levied and as equalized
5 by the Department of Revenue or, in DuPage County, an amount
6 equal to or greater than \$12,000 per mile of road under the
7 jurisdiction of the road district, whichever is less.

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

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

25 (Source: P.A. 97-72, eff. 7-1-11; 97-333, eff. 8-12-11; 98-24,
26 eff. 6-19-13; 98-674, eff. 6-30-14.)

1 Section 97. Severability. The provisions of this Act are
2 severable under Section 1.31 of the Statute on Statutes.

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