



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB6655

by Rep. Michael Tryon

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1006.5

55 ILCS 5/5-1035.1

30 ILCS 105/7.5 new

from Ch. 34, par. 5-1035.1

Amends the Counties Code and the State Finance Act. Creates the Local Transportation Match Fund. Provides that a county may, by ordinance, direct that the taxes and penalties collected for specified purposes in the Counties Code (the County Option Motor Fuel Tax and the Special County Retailers' Occupation Tax for Public Safety or Transportation) be deposited into the Fund. Provides that moneys in the Fund shall be used for federal matching funds for participating counties. Effective immediately.

LRB095 21622 RLJ 51714 b

1 AN ACT concerning local government.

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

4 Section 5. The Counties Code is amended by changing
5 Sections 5-1006.5 and 5-1035.1 as follows:

6 (55 ILCS 5/5-1006.5)

7 Sec. 5-1006.5. Special County Retailers' Occupation Tax
8 For Public Safety or Transportation.

9 (a) The county board of any county may impose a tax upon
10 all persons engaged in the business of selling tangible
11 personal property, other than personal property titled or
12 registered with an agency of this State's government, at retail
13 in the county on the gross receipts from the sales made in the
14 course of business to provide revenue to be used exclusively
15 for public safety or transportation purposes in that county, if
16 a proposition for the tax has been submitted to the electors of
17 that county and approved by a majority of those voting on the
18 question. If imposed, this tax shall be imposed only in
19 one-quarter percent increments. By resolution, the county
20 board may order the proposition to be submitted at any
21 election. If the tax is imposed for transportation purposes for
22 expenditures for public highways or as authorized under the
23 Illinois Highway Code, the county board must publish notice of

1 the existence of its long-range highway transportation plan as
2 required or described in Section 5-301 of the Illinois Highway
3 Code and must make the plan publicly available prior to
4 approval of the ordinance or resolution imposing the tax. If
5 the tax is imposed for transportation purposes for expenditures
6 for passenger rail transportation, the county board must
7 publish notice of the existence of its long-range passenger
8 rail transportation plan and must make the plan publicly
9 available prior to approval of the ordinance or resolution
10 imposing the tax. The county clerk shall certify the question
11 to the proper election authority, who shall submit the
12 proposition at an election in accordance with the general
13 election law.

14 (1) The proposition for public safety purposes shall be
15 in substantially the following form:

16 "To pay for public safety purposes, shall (name of
17 county) be authorized to impose an increase on its share of
18 local sales taxes by (insert rate)?"

19 As additional information on the ballot below the
20 question shall appear the following:

21 "This would mean that a consumer would pay an
22 additional (insert amount) in sales tax for every \$100 of
23 tangible personal property bought at retail."

24 The county board may also opt to establish a sunset
25 provision at which time the additional sales tax would
26 cease being collected, if not terminated earlier by a vote

1 of the county board. If the county board votes to include a
2 sunset provision, the proposition for public safety
3 purposes shall be in substantially the following form:

4 "To pay for public safety purposes, shall (name of
5 county) be authorized to impose an increase on its share of
6 local sales taxes by (insert rate) for a period not to
7 exceed (insert number of years)?"

8 As additional information on the ballot below the
9 question shall appear the following:

10 "This would mean that a consumer would pay an
11 additional (insert amount) in sales tax for every \$100 of
12 tangible personal property bought at retail. If imposed,
13 the additional tax would cease being collected at the end
14 of (insert number of years), if not terminated earlier by a
15 vote of the county board."

16 For the purposes of the paragraph, "public safety
17 purposes" means crime prevention, detention, fire
18 fighting, police, medical, ambulance, or other emergency
19 services.

20 Votes shall be recorded as "Yes" or "No".

21 (2) The proposition for transportation purposes shall
22 be in substantially the following form:

23 "To pay for improvements to roads and other
24 transportation purposes, shall (name of county) be
25 authorized to impose an increase on its share of local
26 sales taxes by (insert rate)?"

1 As additional information on the ballot below the
2 question shall appear the following:

3 "This would mean that a consumer would pay an
4 additional (insert amount) in sales tax for every \$100 of
5 tangible personal property bought at retail."

6 The county board may also opt to establish a sunset
7 provision at which time the additional sales tax would
8 cease being collected, if not terminated earlier by a vote
9 of the county board. If the county board votes to include a
10 sunset provision, the proposition for transportation
11 purposes shall be in substantially the following form:

12 "To pay for road improvements and other transportation
13 purposes, shall (name of county) be authorized to impose an
14 increase on its share of local sales taxes by (insert rate)
15 for a period not to exceed (insert number of years)?"

16 As additional information on the ballot below the
17 question shall appear the following:

18 "This would mean that a consumer would pay an
19 additional (insert amount) in sales tax for every \$100 of
20 tangible personal property bought at retail. If imposed,
21 the additional tax would cease being collected at the end
22 of (insert number of years), if not terminated earlier by a
23 vote of the county board."

24 For the purposes of this paragraph, transportation
25 purposes means construction, maintenance, operation, and
26 improvement of public highways, any other purpose for which

1 a county may expend funds under the Illinois Highway Code,
2 and passenger rail transportation.

3 The votes shall be recorded as "Yes" or "No".

4 If a majority of the electors voting on the proposition
5 vote in favor of it, the county may impose the tax. A county
6 may not submit more than one proposition authorized by this
7 Section to the electors at any one time.

8 This additional tax may not be imposed on the sales of food
9 for human consumption that is to be consumed off the premises
10 where it is sold (other than alcoholic beverages, soft drinks,
11 and food which has been prepared for immediate consumption) and
12 prescription and non-prescription medicines, drugs, medical
13 appliances and insulin, urine testing materials, syringes, and
14 needles used by diabetics. The tax imposed by a county under
15 this Section and all civil penalties that may be assessed as an
16 incident of the tax shall be collected and enforced by the
17 Illinois Department of Revenue and deposited into a special
18 fund created for that purpose. The certificate of registration
19 that is issued by the Department to a retailer under the
20 Retailers' Occupation Tax Act shall permit the retailer to
21 engage in a business that is taxable without registering
22 separately with the Department under an ordinance or resolution
23 under this Section. The Department has full power to administer
24 and enforce this Section, to collect all taxes and penalties
25 due under this Section, to dispose of taxes and penalties so
26 collected in the manner provided in this Section, and to

1 determine all rights to credit memoranda arising on account of
2 the erroneous payment of a tax or penalty under this Section.
3 In the administration of and compliance with this Section, the
4 Department and persons who are subject to this Section shall
5 (i) have the same rights, remedies, privileges, immunities,
6 powers, and duties, (ii) be subject to the same conditions,
7 restrictions, limitations, penalties, and definitions of
8 terms, and (iii) employ the same modes of procedure as are
9 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
10 1n, 2 through 2-70 (in respect to all provisions contained in
11 those Sections other than the State rate of tax), 2a, 2b, 2c, 3
12 (except provisions relating to transaction returns and quarter
13 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
14 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of
15 the Retailers' Occupation Tax Act and Section 3-7 of the
16 Uniform Penalty and Interest Act as if those provisions were
17 set forth in this Section.

18 Persons subject to any tax imposed under the authority
19 granted in this Section may reimburse themselves for their
20 sellers' tax liability by separately stating the tax as an
21 additional charge, which charge may be stated in combination,
22 in a single amount, with State tax which sellers are required
23 to collect under the Use Tax Act, pursuant to such bracketed
24 schedules as the Department may prescribe.

25 Whenever the Department determines that a refund should be
26 made under this Section to a claimant instead of issuing a

1 credit memorandum, the Department shall notify the State
2 Comptroller, who shall cause the order to be drawn for the
3 amount specified and to the person named in the notification
4 from the Department. The refund shall be paid by the State
5 Treasurer out of the County Public Safety or Transportation
6 Retailers' Occupation Tax Fund.

7 (b) If a tax has been imposed under subsection (a), a
8 service occupation tax shall also be imposed at the same rate
9 upon all persons engaged, in the county, in the business of
10 making sales of service, who, as an incident to making those
11 sales of service, transfer tangible personal property within
12 the county as an incident to a sale of service. This tax may
13 not be imposed on sales of food for human consumption that is
14 to be consumed off the premises where it is sold (other than
15 alcoholic beverages, soft drinks, and food prepared for
16 immediate consumption) and prescription and non-prescription
17 medicines, drugs, medical appliances and insulin, urine
18 testing materials, syringes, and needles used by diabetics. The
19 tax imposed under this subsection and all civil penalties that
20 may be assessed as an incident thereof shall be collected and
21 enforced by the Department of Revenue. The Department has full
22 power to administer and enforce this subsection; to collect all
23 taxes and penalties due hereunder; to dispose of taxes and
24 penalties so collected in the manner hereinafter provided; and
25 to determine all rights to credit memoranda arising on account
26 of the erroneous payment of tax or penalty hereunder. In the

1 administration of, and compliance with this subsection, the
2 Department and persons who are subject to this paragraph shall
3 (i) have the same rights, remedies, privileges, immunities,
4 powers, and duties, (ii) be subject to the same conditions,
5 restrictions, limitations, penalties, exclusions, exemptions,
6 and definitions of terms, and (iii) employ the same modes of
7 procedure as are prescribed in Sections 2 (except that the
8 reference to State in the definition of supplier maintaining a
9 place of business in this State shall mean the county), 2a, 2b,
10 2c, 3 through 3-50 (in respect to all provisions therein other
11 than the State rate of tax), 4 (except that the reference to
12 the State shall be to the county), 5, 7, 8 (except that the
13 jurisdiction to which the tax shall be a debt to the extent
14 indicated in that Section 8 shall be the county), 9 (except as
15 to the disposition of taxes and penalties collected), 10, 11,
16 12 (except the reference therein to Section 2b of the
17 Retailers' Occupation Tax Act), 13 (except that any reference
18 to the State shall mean the county), Section 15, 16, 17, 18, 19
19 and 20 of the Service Occupation Tax Act and Section 3-7 of the
20 Uniform Penalty and Interest Act, as fully as if those
21 provisions were set forth herein.

22 Persons subject to any tax imposed under the authority
23 granted in this subsection may reimburse themselves for their
24 serviceman's tax liability by separately stating the tax as an
25 additional charge, which charge may be stated in combination,
26 in a single amount, with State tax that servicemen are

1 authorized to collect under the Service Use Tax Act, in
2 accordance with such bracket schedules as the Department may
3 prescribe.

4 Whenever the Department determines that a refund should be
5 made under this subsection to a claimant instead of issuing a
6 credit memorandum, the Department shall notify the State
7 Comptroller, who shall cause the warrant to be drawn for the
8 amount specified, and to the person named, in the notification
9 from the Department. The refund shall be paid by the State
10 Treasurer out of the County Public Safety or Transportation
11 Retailers' Occupation Fund.

12 Nothing in this subsection shall be construed to authorize
13 the county to impose a tax upon the privilege of engaging in
14 any business which under the Constitution of the United States
15 may not be made the subject of taxation by the State.

16 (c) The Department shall immediately pay over to the State
17 Treasurer, ex officio, as trustee, all taxes and penalties
18 collected under this Section to be deposited into the County
19 Public Safety or Transportation Retailers' Occupation Tax
20 Fund, which shall be an unappropriated trust fund held outside
21 of the State treasury. On or before the 25th day of each
22 calendar month, the Department shall prepare and certify to the
23 Comptroller the disbursement of stated sums of money to the
24 counties from which retailers have paid taxes or penalties to
25 the Department during the second preceding calendar month. The
26 amount to be paid to each county, and deposited by the county

1 into its special fund created for the purposes of this Section,
2 shall be the amount (not including credit memoranda) collected
3 under this Section during the second preceding calendar month
4 by the Department plus an amount the Department determines is
5 necessary to offset any amounts that were erroneously paid to a
6 different taxing body, and not including (i) an amount equal to
7 the amount of refunds made during the second preceding calendar
8 month by the Department on behalf of the county and (ii) any
9 amount that the Department determines is necessary to offset
10 any amounts that were payable to a different taxing body but
11 were erroneously paid to the county. Within 10 days after
12 receipt by the Comptroller of the disbursement certification to
13 the counties provided for in this Section to be given to the
14 Comptroller by the Department, the Comptroller shall cause the
15 orders to be drawn for the respective amounts in accordance
16 with directions contained in the certification.

17 In addition to the disbursement required by the preceding
18 paragraph, an allocation shall be made in March of each year to
19 each county that received more than \$500,000 in disbursements
20 under the preceding paragraph in the preceding calendar year.
21 The allocation shall be in an amount equal to the average
22 monthly distribution made to each such county under the
23 preceding paragraph during the preceding calendar year
24 (excluding the 2 months of highest receipts). The distribution
25 made in March of each year subsequent to the year in which an
26 allocation was made pursuant to this paragraph and the

1 preceding paragraph shall be reduced by the amount allocated
2 and disbursed under this paragraph in the preceding calendar
3 year. The Department shall prepare and certify to the
4 Comptroller for disbursement the allocations made in
5 accordance with this paragraph.

6 A county may direct, by ordinance, that all taxes and
7 penalties collected under the Special County Retailers'
8 Occupation Tax For Public Safety or Transportation be deposited
9 into the Local Transportation Match Fund.

10 (d) For the purpose of determining the local governmental
11 unit whose tax is applicable, a retail sale by a producer of
12 coal or another mineral mined in Illinois is a sale at retail
13 at the place where the coal or other mineral mined in Illinois
14 is extracted from the earth. This paragraph does not apply to
15 coal or another mineral when it is delivered or shipped by the
16 seller to the purchaser at a point outside Illinois so that the
17 sale is exempt under the United States Constitution as a sale
18 in interstate or foreign commerce.

19 (e) Nothing in this Section shall be construed to authorize
20 a county to impose a tax upon the privilege of engaging in any
21 business that under the Constitution of the United States may
22 not be made the subject of taxation by this State.

23 (e-5) If a county imposes a tax under this Section, the
24 county board may, by ordinance, discontinue or lower the rate
25 of the tax. If the county board lowers the tax rate or
26 discontinues the tax, a referendum must be held in accordance

1 with subsection (a) of this Section in order to increase the
2 rate of the tax or to reimpose the discontinued tax.

3 (f) Beginning April 1, 1998, the results of any election
4 authorizing a proposition to impose a tax under this Section or
5 effecting a change in the rate of tax, or any ordinance
6 lowering the rate or discontinuing the tax, shall be certified
7 by the county clerk and filed with the Illinois Department of
8 Revenue either (i) on or before the first day of April,
9 whereupon the Department shall proceed to administer and
10 enforce the tax as of the first day of July next following the
11 filing; or (ii) on or before the first day of October,
12 whereupon the Department shall proceed to administer and
13 enforce the tax as of the first day of January next following
14 the filing.

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

21 (h) This Section may be cited as the "Special County
22 Occupation Tax For Public Safety or Transportation Law".

23 (i) For purposes of this Section, "public safety" includes,
24 but is not limited to, crime prevention, detention, fire
25 fighting, police, medical, ambulance, or other emergency
26 services. For the purposes of this Section, "transportation"

1 includes, but is not limited to, the construction, maintenance,
2 operation, and improvement of public highways, any other
3 purpose for which a county may expend funds under the Illinois
4 Highway Code, and passenger rail transportation.

5 (Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08.)

6 (55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

7 Sec. 5-1035.1. County Motor Fuel Tax Law. The county board
8 of the counties of DuPage, Kane and McHenry may, by an
9 ordinance or resolution adopted by an affirmative vote of a
10 majority of the members elected or appointed to the county
11 board, impose a tax upon all persons engaged in the county in
12 the business of selling motor fuel, as now or hereafter defined
13 in the Motor Fuel Tax Law, at retail for the operation of motor
14 vehicles upon public highways or for the operation of
15 recreational watercraft upon waterways. Kane County may exempt
16 diesel fuel from the tax imposed pursuant to this Section. The
17 tax may be imposed, in half-cent increments, at a rate not
18 exceeding 4 cents per gallon of motor fuel sold at retail
19 within the county for the purpose of use or consumption and not
20 for the purpose of resale. The proceeds from the tax shall be
21 used by the county solely for the purpose of operating,
22 constructing and improving public highways and waterways, and
23 acquiring real property and right-of-ways for public highways
24 and waterways within the county imposing the tax.

25 A tax imposed pursuant to this Section, and all civil

1 penalties that may be assessed as an incident thereof, shall be
2 administered, collected and enforced by the Illinois
3 Department of Revenue in the same manner as the tax imposed
4 under the Retailers' Occupation Tax Act, as now or hereafter
5 amended, insofar as may be practicable; except that in the
6 event of a conflict with the provisions of this Section, this
7 Section shall control. The Department of Revenue shall have
8 full power: to administer and enforce this Section; to collect
9 all taxes and penalties due hereunder; to dispose of taxes and
10 penalties so collected in the manner hereinafter provided; and
11 to determine all rights to credit memoranda arising on account
12 of the erroneous payment of tax or penalty hereunder.

13 Whenever the Department determines that a refund shall be
14 made under this Section to a claimant instead of issuing a
15 credit memorandum, the Department shall notify the State
16 Comptroller, who shall cause the order to be drawn for the
17 amount specified, and to the person named, in the notification
18 from the Department. The refund shall be paid by the State
19 Treasurer out of the County Option Motor Fuel Tax Fund.

20 The Department shall forthwith pay over to the State
21 Treasurer, ex-officio, as trustee, all taxes and penalties
22 collected hereunder, which shall be deposited into the County
23 Option Motor Fuel Tax Fund, a special fund in the State
24 Treasury which is hereby created. On or before the 25th day of
25 each calendar month, the Department shall prepare and certify
26 to the State Comptroller the disbursement of stated sums of

1 money to named counties for which taxpayers have paid taxes or
2 penalties hereunder to the Department during the second
3 preceding calendar month. The amount to be paid to each county
4 shall be the amount (not including credit memoranda) collected
5 hereunder from retailers within the county during the second
6 preceding calendar month by the Department, but not including
7 an amount equal to the amount of refunds made during the second
8 preceding calendar month by the Department on behalf of the
9 county; less the amount expended during the second preceding
10 month by the Department pursuant to appropriation from the
11 County Option Motor Fuel Tax Fund for the administration and
12 enforcement of this Section, which appropriation shall not
13 exceed \$200,000 for fiscal year 1990 and, for each year
14 thereafter, shall not exceed 2% of the amount deposited into
15 the County Option Motor Fuel Tax Fund during the preceding
16 fiscal year.

17 A county may direct, by ordinance, that all taxes and
18 penalties collected under the County Option Motor Fuel Tax
19 shall be deposited into the Local Transportation Match Fund.

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

24 An ordinance or resolution imposing a tax hereunder or
25 effecting a change in the rate thereof shall be effective on
26 the first day of the second calendar month next following the

1 month in which the ordinance or resolution is adopted and a
2 certified copy thereof is filed with the Department of Revenue,
3 whereupon the Department of Revenue shall proceed to administer
4 and enforce this Section on behalf of the county as of the
5 effective date of the ordinance or resolution. Upon a change in
6 rate of a tax levied hereunder, or upon the discontinuance of
7 the tax, the county board of the county shall, on or not later
8 than 5 days after the effective date of the ordinance or
9 resolution discontinuing the tax or effecting a change in rate,
10 transmit to the Department of Revenue a certified copy of the
11 ordinance or resolution effecting the change or
12 discontinuance.

13 This Section shall be known and may be cited as the County
14 Motor Fuel Tax Law.

15 (Source: P.A. 86-1028; 87-289.)

16 Section 10. The State Finance Act is amended by adding
17 Section 7.5 as follows:

18 (30 ILCS 105/7.5 new)

19 Sec. 7.5. The Local Transportation Match Fund. The Local
20 Transportation Match Fund is hereby created. The fund shall be
21 an unappropriated fund held outside of the State Treasury. The
22 State Treasurer shall have custody of the Fund. If a county
23 elects to participate under Sections 5-1035.1 or 5-1006.5 of
24 the Counties Code, the Department of Revenue shall transfer to

1 the State Treasurer all taxes and penalties collected under the
2 Special County Retailers Occupation Tax For Public Safety or
3 Transportation and under the County Option Motor Fuel Tax Fund
4 into the Local Transportation Match Fund. The State Treasurer
5 shall transfer to each county that county's proportionate share
6 of (i) the taxes and penalties collected from the Special
7 County Retailers Occupation Tax For Public Safety or
8 Transportation and the County Option Motor Fuel Tax Fund and
9 (ii) the federal match funding from the Safe, Accountable,
10 Flexible, Efficient Transportation Equity Act (SAFETEA-LU).
11 The transfer shall be made by the State Treasurer after
12 receiving the SAFETEA-LU federal match funds. Moneys in the
13 Fund shall be used for transportation purposes.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.