

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. If and only if Senate Bill 2052 of the 95th  
5 General Assembly becomes law, then the Flood Prevention  
6 District Act is amended by changing Sections 5, 10, 20, 25, 30,  
7 35, 40, 45, and 50 as follows:

8 (S.B. 2052eng, 95th G.A., Sec. 5)

9 Sec. 5. Creation; purpose.

10 (a) Madison, Monroe, and St. Clair Counties may each be  
11 designated independently and separately as a flood prevention  
12 district for the purpose of performing emergency levee repair  
13 and flood prevention in order to prevent the loss of life or  
14 property. The county board of any such county may declare an  
15 emergency and create a flood prevention district by the  
16 affirmative vote of the majority of the members of the county  
17 board.

18 (b) Two or more flood prevention districts may join  
19 together through an intergovernmental agreement to provide any  
20 services described in this Act, to construct, reconstruct,  
21 repair, or otherwise provide any facilities described in this  
22 Act either within or outside of any district's corporate  
23 limits, to issue bonds, notes, or other evidences of

1 indebtedness, to pledge the taxes authorized to be imposed  
2 pursuant to Section 25 of this Act to the obligations of any  
3 other district, and to exercise any other power authorized in  
4 this Act, pursuant to the Intergovernmental Cooperation Act.

5 (c) Any district created under this Act shall be dissolved  
6 upon the later of (i) 25 years after the date the district is  
7 created or (ii) the payment of all obligations of the district  
8 issued under Section 20 of this Act and the payment of any  
9 federal reimbursement moneys to the county treasurer under  
10 Section 30 of this Act. A district may be dissolved earlier by  
11 its board of commissioners if all federal reimbursement moneys  
12 have been paid to the county treasurer and all obligations of  
13 the district have been paid, including its obligations related  
14 to bonds issued under Section 20 of this Act and any  
15 obligations incurred pursuant to an intergovernmental  
16 agreement.

17 (Source: 95SB2052eng.)

18 (S.B. 2052eng, 95th G.A., Sec. 10)

19 Sec. 10. Commissioners. The affairs of the district shall  
20 be managed by a board of 3 commissioners who shall be appointed  
21 by the chairman of the county board of the county in which the  
22 district is situated. All initial appointments under this  
23 Section must be made within 90 days after the district is  
24 organized. Of the initial appointments, one commissioner shall  
25 serve for a one-year term, one commissioner shall serve for a

1 2-year term, and one commissioner shall serve for a 3-year  
2 term, as determined by lot. Their successors shall be appointed  
3 for 3-year terms. A commissioner shall continue to serve as  
4 commissioner until his or her successor is duly appointed. No  
5 commissioner may serve for more than 20 years. All appointments  
6 must be made so that no more than 2 commissioners are from the  
7 same political party at the time of the appointment. With  
8 respect to appointments representing the minority party in the  
9 county, the minority party members of the county board may  
10 submit names for consideration to the chairman of the county  
11 board. Each commissioner must be a legal voter in the district,  
12 and at least one commissioner shall reside or own property that  
13 is located within a floodplain situated in the territory of the  
14 flood protection district. Commissioners shall serve without  
15 compensation, but may be reimbursed for reasonable expenses  
16 incurred in the performance of their duties.

17 (Source: 95SB2052eng.)

18 (S.B. 2052eng, 95th G.A., Sec. 20)

19 Sec. 20. Powers of the district. A district formed under  
20 this Act shall have the following powers:

21 (1) To sue or be sued.

22 (2) To apply for and accept gifts, grants, and loans  
23 from any public agency or private entity.

24 (3) To enter into intergovernmental agreements to  
25 further ensure levee repair, levee construction or

1 reconstruction, and flood prevention, within or outside of  
2 the district's corporate limits, including agreements with  
3 the United States Army Corps of Engineers or any other  
4 agency or department of the federal government.

5 (4) To undertake evaluation, planning, design,  
6 construction, and related activities that are determined  
7 to be urgently needed to stabilize, repair, restore,  
8 improve, or replace existing levees and other flood control  
9 systems located within or outside of the district's  
10 corporate limits.

11 (5) To address underseepage problems and old and  
12 deteriorating pumps, gates, pipes, electrical controls,  
13 and other infrastructure within or outside of the  
14 district's corporate limits.

15 (6) To conduct evaluations of levees and other flood  
16 control facilities that protect urban areas, including the  
17 performance of floodplain mapping studies.

18 (7) To provide capital moneys for levee or  
19 river-related scientific studies, within or outside of the  
20 district's corporate limits, including the construction of  
21 facilities for such purposes.

22 (8) To borrow money or receive money from the United  
23 States Government or any agency thereof, or from any other  
24 public or private source, for the purposes of the District  
25 and to issue indebtedness, including bonds, notes, or other  
26 evidences of indebtedness to evidence such borrowing, and

1       to pledge and use some or all of the taxes imposed pursuant  
2       to Section 25 of this Act for the repayment of the  
3       indebtedness of the District or any other flood prevention  
4       districts. The District shall direct the county to use  
5       moneys in the County Flood Prevention Occupation Tax Fund  
6       to pay such indebtedness.

7           (9) To enter into agreements with private property  
8       owners.

9           (10) To issue revenue bonds, notes, or other evidences  
10       of indebtedness payable from revenue received from a  
11       ~~retailers' occupation~~ tax imposed under Section 25 of this  
12       Act, and from any other revenue sources available to the  
13       flood prevention district. These bonds may be issued with  
14       maturities not exceeding 25 years from the date of the  
15       bonds, and in such amounts as may be necessary to provide  
16       sufficient funds, together with interest, for the purposes  
17       of the District. These bonds shall bear interest at a rate  
18       of not more than the maximum rate authorized by the Bond  
19       Authorization Act, as amended at the time of the making of  
20       the contract of sale, payable semi-annually, may be made  
21       registerable as to principal, and may be made payable and  
22       callable as provided on any date at a price of par and  
23       accrued interest under such terms and conditions as may be  
24       fixed by the ordinance authorizing the issuance of the  
25       bonds. Bonds issued under this Section are negotiable  
26       instruments. In case any officer whose signature appears on

1 the bonds or coupons ceases to hold that office before the  
2 bonds are delivered, such officer's signature shall  
3 nevertheless be valid and sufficient for all purposes the  
4 same as though such officer had remained in office until  
5 the bonds were delivered. The bonds shall be sold in such  
6 manner and upon such terms as the board of commissioners  
7 shall determine, except that the selling price shall be  
8 such that the interest cost to the District on ~~of~~ the  
9 proceeds of the bonds shall not exceed the maximum rate  
10 authorized by the Bond Authorization Act, as amended at the  
11 time of the making of the contract of sale, payable  
12 semi-annually, computed to maturity according to the  
13 standard table of bond values. Bonds issued by the District  
14 shall not be considered indebtedness for purposes of any  
15 statutory limitation and may be issued in an amount or  
16 amounts, including existing indebtedness, in excess of any  
17 heretofore or hereafter imposed statutory limitation as to  
18 indebtedness. A request to issue revenue bonds by the  
19 District Commission must be submitted for approval to the  
20 county board of the county in which the district is  
21 situated. The county board has 30 calendar days to approve  
22 the issuance of such bonds. If the county board does not  
23 approve or disapprove the issuance of the bonds within 30  
24 calendar days after the receipt of such request, the  
25 request shall be deemed approved. The District shall direct  
26 the county to use moneys in the County Flood Prevention

1       Occupation Tax Fund to pay for bonds issued.

2           (11) To acquire property by gift, grant, or eminent  
3 domain, in accordance with the Eminent Domain Act. Any  
4 action by the District to acquire property by eminent  
5 domain requires the express approval of the county board.

6           (12) To retain professional staff to carry out the  
7 functions of the District. Any flood prevention district  
8 shall employ a Chief Supervisor of Construction and the  
9 Works with appropriate professional qualifications,  
10 including a degree in engineering, construction,  
11 hydrology, or a related field, or an equivalent combination  
12 of education and experience. The Chief Supervisor of  
13 Construction and the Works shall be vested with the  
14 authority to carry out the duties and mission of the Flood  
15 Prevention District, pursuant to the direction and  
16 supervision of the Board of Commissioners. The Chief  
17 Supervisor of Construction and the Works may hire  
18 additional staff as necessary to carry out the duties and  
19 mission of the district, including administrative support  
20 personnel. Two or more districts may, through an  
21 intergovernmental agreement, share the services of a Chief  
22 Supervisor of Construction and the Works, support staff, or  
23 both. If 2 districts are adjoining and share a common  
24 federal levee, they must retain the services of the same  
25 person as Chief Supervisor of Construction and the Works.

26           (13) To conduct an audit of any drainage, levee, or

1 sanitary district within the territory of the flood  
2 prevention district.

3 (14) To reimburse any county for costs advanced by the  
4 county for expenses that would have otherwise been paid out  
5 of the County Flood Prevention Occupation Tax Fund, had  
6 such fund been established at the time of the expenditure.  
7 Nothing in this Section shall be construed to permit a  
8 county to seek reimbursement from a flood prevention  
9 district for any expense related to levee maintenance,  
10 repair, improvement, construction, staff, operating  
11 expenses, levee or river-related scientific studies, the  
12 construction of facilities for any such purpose, or any  
13 other non-emergency levee related expense that occurred  
14 prior to an emergency situation involving the levees within  
15 such county.

16 (Source: 95SB2052eng.)

17 (S.B. 2052eng, 95th G.A., Sec. 25)

18 Sec. 25. Flood prevention retailers' and service  
19 occupation taxes ~~Retailers' occupation tax.~~

20 (a) If the Board of Commissioners of a flood prevention  
21 district determines that an emergency situation exists  
22 regarding levee repair or flood prevention, and upon an  
23 ordinance confirming the determination ~~or resolution~~ adopted  
24 by the affirmative vote of a majority of the members of the  
25 county board of the county in which the district is situated,

1 the county ~~it~~ may impose a flood prevention retailers'  
2 occupation tax upon all persons engaged in the business of  
3 selling tangible personal property at retail within the  
4 territory of the district to provide revenue to pay the costs  
5 of providing emergency levee repair and flood prevention and to  
6 secure the payment of bonds, notes, and other evidences of  
7 indebtedness issued under this Act for a period not to exceed  
8 25 years or as required to repay the bonds, notes, and other  
9 evidences of indebtedness issued under this Act ~~issued pursuant~~  
10 ~~to Section 20 of this Act~~. The tax rate shall be 0.25% of the  
11 gross receipts from all taxable sales made in the course of  
12 that business. The tax imposed under this Section and all civil  
13 penalties that may be assessed as an incident thereof shall be  
14 collected and enforced by the State Department of Revenue. The  
15 Department shall have full power to administer and enforce this  
16 Section; to collect all taxes and penalties so collected in the  
17 manner hereinafter provided; and to determine all rights to  
18 credit memoranda arising on account of the erroneous payment of  
19 tax or penalty hereunder.

20 In the administration of and compliance with this  
21 subsection, the Department and persons who are subject to this  
22 subsection (i) have the same rights, remedies, privileges,  
23 immunities, powers, and duties, (ii) are subject to the same  
24 conditions, restrictions, limitations, penalties, and  
25 definitions of terms, and (iii) shall employ the same modes of  
26 procedure as are set forth in Sections 1 through 10, 2 through

1 2-70 (in respect to all provisions contained in those Sections  
2 other than the State rate of tax), 2a through 2h, 3 (except as  
3 to the disposition of taxes and penalties collected), 4, 5, 5a,  
4 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10,  
5 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act and  
6 all provisions of the Uniform Penalty and Interest Act as if  
7 those provisions were set forth in this subsection.

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

15 If a tax is imposed under this subsection (a), a tax shall  
16 also be imposed under subsection (b) of this Section.

17 (b) If a tax has been imposed under subsection (a), a flood  
18 prevention service occupation tax shall also be imposed upon  
19 all persons engaged within the territory of the district  
20 ~~engaged~~ in the business of making sales of service, who, as an  
21 incident to making the sales of service, transfer tangible  
22 personal property ~~within the territory of the district~~, either  
23 in the form of tangible personal property or in the form of  
24 real estate as an incident to a sale of service to provide  
25 revenue to pay the costs of providing emergency levee repair  
26 and flood prevention and to secure the payment of bonds, notes,

1 and other evidences of indebtedness issued under this Act for a  
2 period not to exceed 25 years or as required to repay the  
3 bonds, notes, and other evidences of indebtedness. The tax rate  
4 shall be 0.25% of the selling price of all tangible personal  
5 property transferred.

6 The tax imposed under this subsection and all civil  
7 penalties that may be assessed as an incident thereof shall be  
8 collected and enforced by the State Department of Revenue. The  
9 Department shall have full power to administer and enforce this  
10 subsection; to collect all taxes and penalties due hereunder;  
11 to dispose of taxes and penalties collected in the manner  
12 hereinafter provided; and to determine all rights to credit  
13 memoranda arising on account of the erroneous payment of tax or  
14 penalty hereunder.

15 In the administration of and compliance with this  
16 subsection, the Department and persons who are subject to this  
17 subsection shall (i) have the same rights, remedies,  
18 privileges, immunities, powers, and duties, (ii) be subject to  
19 the same conditions, restrictions, limitations, penalties, and  
20 definitions of terms, and (iii) employ the same modes of  
21 procedure as are set forth in Sections 2 (except that the that  
22 reference to State in the definition of supplier maintaining a  
23 place of business in this State means the district), 2a through  
24 2d, 3 through 3-50 (in respect to all provisions contained in  
25 those Sections other than the State rate of tax), 4 (except  
26 that the reference to the State shall be to the district), 5,

1 7, 8 (except that the jurisdiction to which the tax is a debt  
2 to the extent indicated in that Section 8 is the district), 9  
3 (except as to the disposition of taxes and penalties  
4 collected), 10, 11, 12 (except the reference therein to Section  
5 2b of the Retailers' Occupation Tax Act), 13 (except that any  
6 reference to the State means the district), Section 15, 16, 17,  
7 18, 19, and 20 of the Service Occupation Tax Act and all  
8 provisions of the Uniform Penalty and Interest Act, as fully as  
9 if those provisions were set forth herein.

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

17 (c) The taxes ~~This additional tax~~ imposed in subsections  
18 (a) and (b) may not be imposed on personal property titled or  
19 registered with an agency of the State; food for human  
20 consumption that is to be consumed off the premises where it is  
21 sold (other than alcoholic beverages, soft drinks, and food  
22 that has been prepared for immediate consumption);  
23 prescription and non-prescription medicines, drugs, and  
24 medical appliances; modifications to a motor vehicle for the  
25 purpose of rendering it usable by a disabled person; or  
26 insulin, urine testing materials, and syringes and needles used

1 by diabetics.

2 (d) Nothing in this Section shall be construed to authorize  
3 the district to impose a tax upon the privilege of engaging in  
4 any business that under the Constitution of the United States  
5 may not be made the subject of taxation by the State.

6 (e) The certificate of registration that is issued by the  
7 Department to a retailer under the Retailers' Occupation Tax  
8 Act or a serviceman under the Service Occupation Tax Act  
9 permits the retailer or serviceman to engage in a business that  
10 is taxable without registering separately with the Department  
11 under an ordinance or resolution under this Section.

12 (f) The Department shall immediately pay over to the State  
13 Treasurer, *ex officio*, as trustee, all taxes and penalties  
14 collected under this Section to be deposited into the Flood  
15 Prevention Occupation Tax Fund, which shall be an  
16 unappropriated trust fund held outside the State treasury.

17 On or before the 25th day of each calendar month, the  
18 Department shall prepare and certify to the Comptroller the  
19 ~~that~~ disbursement of stated sums of money to the counties from  
20 which retailers or servicemen have paid taxes or penalties to  
21 the Department during the second preceding calendar month. The  
22 amount to be paid to each county is equal to the amount (not  
23 including credit memoranda) collected from the county under  
24 this Section during the second preceding calendar month by the  
25 Department, (i) less 2% of that amount, which shall be  
26 deposited into the Tax Compliance and Administration Fund and

1 shall be used by the Department in administering and enforcing  
2 the provisions of this Section on behalf of the county, (ii)  
3 plus an amount that the Department determines is necessary to  
4 offset any amounts that were erroneously paid to a different  
5 taxing body; (iii) less an amount equal to the amount of  
6 refunds made during the second preceding calendar month by the  
7 Department on behalf of the county; and (iv) less any amount  
8 that the Department determines is necessary to offset any  
9 amounts that were payable to a different taxing body but were  
10 erroneously paid to the county. When certifying the amount of a  
11 monthly disbursement to a county under this Section, the  
12 Department shall increase or decrease the amounts by an amount  
13 necessary to offset any miscalculation of previous  
14 disbursements within the previous 6 months from the time a  
15 miscalculation is discovered.

16 Within 10 days after receipt by the Comptroller from the  
17 Department of the disbursement certification to the counties  
18 provided for in this Section, the Comptroller shall cause the  
19 orders to be drawn for the respective amounts in accordance  
20 with directions contained in the certification.

21 If the Department determines that a refund should be made  
22 under this Section to a claimant instead of issuing a credit  
23 memorandum, then the Department shall notify the Comptroller,  
24 who shall cause the order to be drawn for the amount specified  
25 and to the person named in the notification from the  
26 Department. The refund shall be paid by the Treasurer out of

1 the Flood Prevention Occupation Tax Fund.

2 (g) If a county ~~flood prevention district board~~ imposes a  
3 tax under this Section, then the county board shall, by  
4 ordinance, discontinue the tax upon the payment of all ~~bonded~~  
5 indebtedness of the flood prevention district ~~District~~. The tax  
6 shall not be discontinued until all ~~bonded~~ indebtedness of the  
7 District has been paid.

8 (h) Any ordinance imposing the tax under this Section, or  
9 any ordinance that discontinues the tax, must be certified by  
10 the county clerk and filed with the Illinois Department of  
11 Revenue either (i) on or before the first day of April,  
12 whereupon the Department shall proceed to administer and  
13 enforce the tax or change in the rate as of the first day of  
14 July next following the filing; or (ii) on or before the first  
15 day of October, whereupon the Department shall proceed to  
16 administer and enforce the tax or change in the rate as of the  
17 first day of January next following the filing.

18 (j) County Flood Prevention Occupation Tax Fund. All  
19 proceeds received by a county from a tax distribution under  
20 this Section must be maintained in a special fund known as the  
21 [name of county] flood prevention occupation tax fund. The  
22 county shall, at the direction of the flood prevention  
23 district, use moneys in the fund to pay the costs of providing  
24 emergency levee repair and flood prevention and to pay bonds,  
25 notes, and other evidences of indebtedness issued under this  
26 Act.

1        (k) ~~(j)~~ This Section may be cited as the Flood Prevention  
2 Occupation Tax Law.

3        (Source: 95SB2052eng.)

4                (S.B. 2052eng, 95th G.A., Sec. 30)

5        Sec. 30. Disbursement of federal funds.

6                (a) Any reimbursements for the construction of flood  
7 protection facilities shall be appropriated to each county  
8 flood prevention district in accordance with the location of  
9 the specific facility for which the federal appropriation is  
10 made.

11                (b) If there are federal reimbursements to a county flood  
12 prevention district for construction of flood protection  
13 facilities that were built using the proceeds of bonds, notes,  
14 or other evidences of indebtedness ~~revenues~~ authorized by this  
15 Act, those funds shall be used for early retirement of such  
16 bonds, notes, or other evidences of indebtedness issued in  
17 accordance with this Act.

18                (c) When all bonds, notes, or other evidences of  
19 indebtedness ~~bond obligations~~ of the District have been paid,  
20 any remaining federal reimbursement moneys shall be remitted to  
21 the county treasurer for deposit into a special fund for the  
22 continued long-term maintenance of federal levees and flood  
23 protection facilities, pursuant to the direction of the county  
24 board.

25        (Source: 95SB2052eng.)

1 (S.B. 2052eng, 95th G.A., Sec. 35)

2 Sec. 35. Financial audit of the District Commission. A  
3 financial audit of the District Commission shall be conducted  
4 annually by a certified public accountant (CPA) that is  
5 licensed at the time of the audit by the Illinois Department of  
6 Financial and Professional Regulation. The CPA shall meet all  
7 of the general standards concerning qualifications,  
8 independence, due professional care, and quality control as  
9 required by the Government Auditing Standards, 1994 Revision,  
10 Chapter 3, including the requirements for continuing  
11 professional education and external peer review. The financial  
12 audit is to be performed in accordance with generally accepted  
13 auditing standards issued by the American Institute of  
14 Certified Public Accountants (AICPA) for field work and  
15 reporting, generally accepted government auditing standards  
16 (GAGAS) and AICPA Statements on Auditing Standards (SAS)  
17 current at the time the audit is commenced. The audit shall be  
18 made publicly available and sent to the county board chairman  
19 of the county in which the district is situated and to the  
20 Illinois Secretary of State.

21 (Source: 95SB2052eng.)

22 (S.B. 2052eng, 95th G.A., Sec. 40)

23 Sec. 40. Budget of the District Commission. The District  
24 Commission shall adopt an annual budget by August 31 of each

1 year for the fiscal year beginning October 1. Such budget shall  
2 include expected revenues by source and expenditures by project  
3 or by function for the following year. The budget must be  
4 approved by the county board of the county in which the  
5 district is situated prior to any expenditure by the District  
6 ~~Commission~~ for the fiscal year beginning October 1. The county  
7 board must approve or disapprove the budget of the District  
8 ~~commission~~ within 30 calendar days after the budget is received  
9 by the county board. If the county board does not act to  
10 approve or disapprove the budget within 30 calendar days of  
11 receipt, it shall stand as approved.

12 In addition, the District ~~Commission~~ shall submit an annual  
13 report to the county board by August 31 of each year detailing  
14 the activities of the district. This report must also include  
15 any information submitted to the flood prevention district by a  
16 drainage, levee, or sanitary district in accordance with  
17 Section 4-45 of the Illinois Drainage Code or Section 2-2 of  
18 the Metro-East Sanitary District Act.

19 (Source: 95SB2052eng.)

20 (S.B. 2052eng, 95th G.A., Sec. 45)

21 Sec. 45. Procurement. The District ~~Commission~~ shall  
22 conduct all procurements in accordance with the requirements of  
23 the Local Government Professional Services Selection Act and  
24 any competitive bid requirements contained in Section 5-1022 of  
25 the Counties Code.

1 (Source: 95SB2052eng.)

2 (S.B. 2052eng, 95th G.A., Sec. 50)

3 Sec. 50. Contracts for construction. A request for any  
4 construction contract of more than \$10,000 by the District  
5 ~~Commission~~ must be submitted for approval to the county board  
6 of the county in which the district is situated. The county  
7 board has 30 calendar days to approve the construction  
8 contract. If the county board does not approve or disapprove  
9 the construction contract within 30 calendar days after the  
10 receipt of such request, the request shall be deemed approved.

11 (Source: 95SB2052eng.)

12 Section 10. If and only if Senate Bill 2052 of the 95th  
13 General Assembly becomes law, then the Intergovernmental  
14 Cooperation Act is amended by changing Section 3.9 as follows:

15 (5 ILCS 220/3.9)

16 Sec. 3.9. Flood prevention. Two or more county flood  
17 prevention districts may enter into an intergovernmental  
18 agreement to provide any services authorized in the Flood  
19 Prevention District Act, to construct, reconstruct, repair, or  
20 otherwise provide any facilities described in that Act either  
21 within or outside of any district's corporate limits, to issue  
22 bonds, notes, or other evidences of indebtedness, to pledge the  
23 taxes authorized to be imposed pursuant to Section 25 of that

1 Act to the obligations of any other district, and to exercise  
2 any other power authorized in that Act.

3 (Source: 95SB2052eng.)

4 Section 20. If and only if Senate Bill 2052 of the 95th  
5 General Assembly becomes law, then the Use Tax Act is amended  
6 by changing Section 2 as follows:

7 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

8 Sec. 2. "Use" means the exercise by any person of any right  
9 or power over tangible personal property incident to the  
10 ownership of that property, except that it does not include the  
11 sale of such property in any form as tangible personal property  
12 in the regular course of business to the extent that such  
13 property is not first subjected to a use for which it was  
14 purchased, and does not include the use of such property by its  
15 owner for demonstration purposes: Provided that the property  
16 purchased is deemed to be purchased for the purpose of resale,  
17 despite first being used, to the extent to which it is resold  
18 as an ingredient of an intentionally produced product or  
19 by-product of manufacturing. "Use" does not mean the  
20 demonstration use or interim use of tangible personal property  
21 by a retailer before he sells that tangible personal property.  
22 For watercraft or aircraft, if the period of demonstration use  
23 or interim use by the retailer exceeds 18 months, the retailer  
24 shall pay on the retailers' original cost price the tax imposed

1 by this Act, and no credit for that tax is permitted if the  
2 watercraft or aircraft is subsequently sold by the retailer.

3 "Use" does not mean the physical incorporation of tangible  
4 personal property, to the extent not first subjected to a use  
5 for which it was purchased, as an ingredient or constituent,  
6 into other tangible personal property (a) which is sold in the  
7 regular course of business or (b) which the person  
8 incorporating such ingredient or constituent therein has  
9 undertaken at the time of such purchase to cause to be  
10 transported in interstate commerce to destinations outside the  
11 State of Illinois: Provided that the property purchased is  
12 deemed to be purchased for the purpose of resale, despite first  
13 being used, to the extent to which it is resold as an  
14 ingredient of an intentionally produced product or by-product  
15 of manufacturing.

16 "Watercraft" means a Class 2, Class 3, or Class 4  
17 watercraft as defined in Section 3-2 of the Boat Registration  
18 and Safety Act, a personal watercraft, or any boat equipped  
19 with an inboard motor.

20 "Purchase at retail" means the acquisition of the ownership  
21 of or title to tangible personal property through a sale at  
22 retail.

23 "Purchaser" means anyone who, through a sale at retail,  
24 acquires the ownership of tangible personal property for a  
25 valuable consideration.

26 "Sale at retail" means any transfer of the ownership of or

1 title to tangible personal property to a purchaser, for the  
2 purpose of use, and not for the purpose of resale in any form  
3 as tangible personal property to the extent not first subjected  
4 to a use for which it was purchased, for a valuable  
5 consideration: Provided that the property purchased is deemed  
6 to be purchased for the purpose of resale, despite first being  
7 used, to the extent to which it is resold as an ingredient of  
8 an intentionally produced product or by-product of  
9 manufacturing. For this purpose, slag produced as an incident  
10 to manufacturing pig iron or steel and sold is considered to be  
11 an intentionally produced by-product of manufacturing. "Sale  
12 at retail" includes any such transfer made for resale unless  
13 made in compliance with Section 2c of the Retailers' Occupation  
14 Tax Act, as incorporated by reference into Section 12 of this  
15 Act. Transactions whereby the possession of the property is  
16 transferred but the seller retains the title as security for  
17 payment of the selling price are sales.

18 "Sale at retail" shall also be construed to include any  
19 Illinois florist's sales transaction in which the purchase  
20 order is received in Illinois by a florist and the sale is for  
21 use or consumption, but the Illinois florist has a florist in  
22 another state deliver the property to the purchaser or the  
23 purchaser's donee in such other state.

24 Nonreusable tangible personal property that is used by  
25 persons engaged in the business of operating a restaurant,  
26 cafeteria, or drive-in is a sale for resale when it is

1 transferred to customers in the ordinary course of business as  
2 part of the sale of food or beverages and is used to deliver,  
3 package, or consume food or beverages, regardless of where  
4 consumption of the food or beverages occurs. Examples of those  
5 items include, but are not limited to nonreusable, paper and  
6 plastic cups, plates, baskets, boxes, sleeves, buckets or other  
7 containers, utensils, straws, placemats, napkins, doggie bags,  
8 and wrapping or packaging materials that are transferred to  
9 customers as part of the sale of food or beverages in the  
10 ordinary course of business.

11 The purchase, employment and transfer of such tangible  
12 personal property as newsprint and ink for the primary purpose  
13 of conveying news (with or without other information) is not a  
14 purchase, use or sale of tangible personal property.

15 "Selling price" means the consideration for a sale valued  
16 in money whether received in money or otherwise, including  
17 cash, credits, property other than as hereinafter provided, and  
18 services, but not including the value of or credit given for  
19 traded-in tangible personal property where the item that is  
20 traded-in is of like kind and character as that which is being  
21 sold, and shall be determined without any deduction on account  
22 of the cost of the property sold, the cost of materials used,  
23 labor or service cost or any other expense whatsoever, but does  
24 not include interest or finance charges which appear as  
25 separate items on the bill of sale or sales contract nor  
26 charges that are added to prices by sellers on account of the

1 seller's tax liability under the "Retailers' Occupation Tax  
2 Act", or on account of the seller's duty to collect, from the  
3 purchaser, the tax that is imposed by this Act, or, except as  
4 otherwise provided with respect to any cigarette tax imposed by  
5 a home rule unit, on account of the seller's tax liability  
6 under any local occupation tax administered by the Department,  
7 or, except as otherwise provided with respect to any cigarette  
8 tax imposed by a home rule unit on account of the seller's duty  
9 to collect, from the purchasers, the tax that is imposed under  
10 any local use tax administered by the Department ~~or on account~~  
11 ~~of the seller's tax liability under Section 8-11-1 of the~~  
12 ~~Illinois Municipal Code, as heretofore and hereafter amended,~~  
13 ~~or on account of the seller's tax liability under the "County~~  
14 ~~Retailers' Occupation Tax Act".~~ Effective December 1, 1985,  
15 "selling price" shall include charges that are added to prices  
16 by sellers on account of the seller's tax liability under the  
17 Cigarette Tax Act, on account of the seller's duty to collect,  
18 from the purchaser, the tax imposed under the Cigarette Use Tax  
19 Act, and on account of the seller's duty to collect, from the  
20 purchaser, any cigarette tax imposed by a home rule unit.

21 The phrase "like kind and character" shall be liberally  
22 construed (including but not limited to any form of motor  
23 vehicle for any form of motor vehicle, or any kind of farm or  
24 agricultural implement for any other kind of farm or  
25 agricultural implement), while not including a kind of item  
26 which, if sold at retail by that retailer, would be exempt from

1 retailers' occupation tax and use tax as an isolated or  
2 occasional sale.

3 "Department" means the Department of Revenue.

4 "Person" means any natural individual, firm, partnership,  
5 association, joint stock company, joint adventure, public or  
6 private corporation, limited liability company, or a receiver,  
7 executor, trustee, guardian or other representative appointed  
8 by order of any court.

9 "Retailer" means and includes every person engaged in the  
10 business of making sales at retail as defined in this Section.

11 A person who holds himself or herself out as being engaged  
12 (or who habitually engages) in selling tangible personal  
13 property at retail is a retailer hereunder with respect to such  
14 sales (and not primarily in a service occupation)  
15 notwithstanding the fact that such person designs and produces  
16 such tangible personal property on special order for the  
17 purchaser and in such a way as to render the property of value  
18 only to such purchaser, if such tangible personal property so  
19 produced on special order serves substantially the same  
20 function as stock or standard items of tangible personal  
21 property that are sold at retail.

22 A person whose activities are organized and conducted  
23 primarily as a not-for-profit service enterprise, and who  
24 engages in selling tangible personal property at retail  
25 (whether to the public or merely to members and their guests)  
26 is a retailer with respect to such transactions, excepting only

1 a person organized and operated exclusively for charitable,  
2 religious or educational purposes either (1), to the extent of  
3 sales by such person to its members, students, patients or  
4 inmates of tangible personal property to be used primarily for  
5 the purposes of such person, or (2), to the extent of sales by  
6 such person of tangible personal property which is not sold or  
7 offered for sale by persons organized for profit. The selling  
8 of school books and school supplies by schools at retail to  
9 students is not "primarily for the purposes of" the school  
10 which does such selling. This paragraph does not apply to nor  
11 subject to taxation occasional dinners, social or similar  
12 activities of a person organized and operated exclusively for  
13 charitable, religious or educational purposes, whether or not  
14 such activities are open to the public.

15 A person who is the recipient of a grant or contract under  
16 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and  
17 serves meals to participants in the federal Nutrition Program  
18 for the Elderly in return for contributions established in  
19 amount by the individual participant pursuant to a schedule of  
20 suggested fees as provided for in the federal Act is not a  
21 retailer under this Act with respect to such transactions.

22 Persons who engage in the business of transferring tangible  
23 personal property upon the redemption of trading stamps are  
24 retailers hereunder when engaged in such business.

25 The isolated or occasional sale of tangible personal  
26 property at retail by a person who does not hold himself out as

1 being engaged (or who does not habitually engage) in selling  
2 such tangible personal property at retail or a sale through a  
3 bulk vending machine does not make such person a retailer  
4 hereunder. However, any person who is engaged in a business  
5 which is not subject to the tax imposed by the "Retailers'  
6 Occupation Tax Act" because of involving the sale of or a  
7 contract to sell real estate or a construction contract to  
8 improve real estate, but who, in the course of conducting such  
9 business, transfers tangible personal property to users or  
10 consumers in the finished form in which it was purchased, and  
11 which does not become real estate, under any provision of a  
12 construction contract or real estate sale or real estate sales  
13 agreement entered into with some other person arising out of or  
14 because of such nontaxable business, is a retailer to the  
15 extent of the value of the tangible personal property so  
16 transferred. If, in such transaction, a separate charge is made  
17 for the tangible personal property so transferred, the value of  
18 such property, for the purposes of this Act, is the amount so  
19 separately charged, but not less than the cost of such property  
20 to the transferor; if no separate charge is made, the value of  
21 such property, for the purposes of this Act, is the cost to the  
22 transferor of such tangible personal property.

23 "Retailer maintaining a place of business in this State",  
24 or any like term, means and includes any of the following  
25 retailers:

- 26 1. A retailer having or maintaining within this State,

1 directly or by a subsidiary, an office, distribution house,  
2 sales house, warehouse or other place of business, or any  
3 agent or other representative operating within this State  
4 under the authority of the retailer or its subsidiary,  
5 irrespective of whether such place of business or agent or  
6 other representative is located here permanently or  
7 temporarily, or whether such retailer or subsidiary is  
8 licensed to do business in this State. However, the  
9 ownership of property that is located at the premises of a  
10 printer with which the retailer has contracted for printing  
11 and that consists of the final printed product, property  
12 that becomes a part of the final printed product, or copy  
13 from which the printed product is produced shall not result  
14 in the retailer being deemed to have or maintain an office,  
15 distribution house, sales house, warehouse, or other place  
16 of business within this State.

17 2. A retailer soliciting orders for tangible personal  
18 property by means of a telecommunication or television  
19 shopping system (which utilizes toll free numbers) which is  
20 intended by the retailer to be broadcast by cable  
21 television or other means of broadcasting, to consumers  
22 located in this State.

23 3. A retailer, pursuant to a contract with a  
24 broadcaster or publisher located in this State, soliciting  
25 orders for tangible personal property by means of  
26 advertising which is disseminated primarily to consumers

1 located in this State and only secondarily to bordering  
2 jurisdictions.

3 4. A retailer soliciting orders for tangible personal  
4 property by mail if the solicitations are substantial and  
5 recurring and if the retailer benefits from any banking,  
6 financing, debt collection, telecommunication, or  
7 marketing activities occurring in this State or benefits  
8 from the location in this State of authorized installation,  
9 servicing, or repair facilities.

10 5. A retailer that is owned or controlled by the same  
11 interests that own or control any retailer engaging in  
12 business in the same or similar line of business in this  
13 State.

14 6. A retailer having a franchisee or licensee operating  
15 under its trade name if the franchisee or licensee is  
16 required to collect the tax under this Section.

17 7. A retailer, pursuant to a contract with a cable  
18 television operator located in this State, soliciting  
19 orders for tangible personal property by means of  
20 advertising which is transmitted or distributed over a  
21 cable television system in this State.

22 8. A retailer engaging in activities in Illinois, which  
23 activities in the state in which the retail business  
24 engaging in such activities is located would constitute  
25 maintaining a place of business in that state.

26 "Bulk vending machine" means a vending machine, containing

1 unsorted confections, nuts, toys, or other items designed  
2 primarily to be used or played with by children which, when a  
3 coin or coins of a denomination not larger than \$0.50 are  
4 inserted, are dispensed in equal portions, at random and  
5 without selection by the customer.

6 (Source: P.A. 94-1074, eff. 12-26-06.)

7 Section 30. If and only if Senate Bill 2052 of the 95th  
8 General Assembly becomes law, then the Retailers' Occupation  
9 Tax Act is amended by changing Section 1 as follows:

10 (35 ILCS 120/1) (from Ch. 120, par. 440)

11 Sec. 1. Definitions. "Sale at retail" means any transfer of  
12 the ownership of or title to tangible personal property to a  
13 purchaser, for the purpose of use or consumption, and not for  
14 the purpose of resale in any form as tangible personal property  
15 to the extent not first subjected to a use for which it was  
16 purchased, for a valuable consideration: Provided that the  
17 property purchased is deemed to be purchased for the purpose of  
18 resale, despite first being used, to the extent to which it is  
19 resold as an ingredient of an intentionally produced product or  
20 byproduct of manufacturing. For this purpose, slag produced as  
21 an incident to manufacturing pig iron or steel and sold is  
22 considered to be an intentionally produced byproduct of  
23 manufacturing. Transactions whereby the possession of the  
24 property is transferred but the seller retains the title as

1 security for payment of the selling price shall be deemed to be  
2 sales.

3 "Sale at retail" shall be construed to include any transfer  
4 of the ownership of or title to tangible personal property to a  
5 purchaser, for use or consumption by any other person to whom  
6 such purchaser may transfer the tangible personal property  
7 without a valuable consideration, and to include any transfer,  
8 whether made for or without a valuable consideration, for  
9 resale in any form as tangible personal property unless made in  
10 compliance with Section 2c of this Act.

11 Sales of tangible personal property, which property, to the  
12 extent not first subjected to a use for which it was purchased,  
13 as an ingredient or constituent, goes into and forms a part of  
14 tangible personal property subsequently the subject of a "Sale  
15 at retail", are not sales at retail as defined in this Act:  
16 Provided that the property purchased is deemed to be purchased  
17 for the purpose of resale, despite first being used, to the  
18 extent to which it is resold as an ingredient of an  
19 intentionally produced product or byproduct of manufacturing.

20 "Sale at retail" shall be construed to include any Illinois  
21 florist's sales transaction in which the purchase order is  
22 received in Illinois by a florist and the sale is for use or  
23 consumption, but the Illinois florist has a florist in another  
24 state deliver the property to the purchaser or the purchaser's  
25 donee in such other state.

26 Nonreusable tangible personal property that is used by

1 persons engaged in the business of operating a restaurant,  
2 cafeteria, or drive-in is a sale for resale when it is  
3 transferred to customers in the ordinary course of business as  
4 part of the sale of food or beverages and is used to deliver,  
5 package, or consume food or beverages, regardless of where  
6 consumption of the food or beverages occurs. Examples of those  
7 items include, but are not limited to nonreusable, paper and  
8 plastic cups, plates, baskets, boxes, sleeves, buckets or other  
9 containers, utensils, straws, placemats, napkins, doggie bags,  
10 and wrapping or packaging materials that are transferred to  
11 customers as part of the sale of food or beverages in the  
12 ordinary course of business.

13 The purchase, employment and transfer of such tangible  
14 personal property as newsprint and ink for the primary purpose  
15 of conveying news (with or without other information) is not a  
16 purchase, use or sale of tangible personal property.

17 A person whose activities are organized and conducted  
18 primarily as a not-for-profit service enterprise, and who  
19 engages in selling tangible personal property at retail  
20 (whether to the public or merely to members and their guests)  
21 is engaged in the business of selling tangible personal  
22 property at retail with respect to such transactions, excepting  
23 only a person organized and operated exclusively for  
24 charitable, religious or educational purposes either (1), to  
25 the extent of sales by such person to its members, students,  
26 patients or inmates of tangible personal property to be used

1 primarily for the purposes of such person, or (2), to the  
2 extent of sales by such person of tangible personal property  
3 which is not sold or offered for sale by persons organized for  
4 profit. The selling of school books and school supplies by  
5 schools at retail to students is not "primarily for the  
6 purposes of" the school which does such selling. The provisions  
7 of this paragraph shall not apply to nor subject to taxation  
8 occasional dinners, socials or similar activities of a person  
9 organized and operated exclusively for charitable, religious  
10 or educational purposes, whether or not such activities are  
11 open to the public.

12 A person who is the recipient of a grant or contract under  
13 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and  
14 serves meals to participants in the federal Nutrition Program  
15 for the Elderly in return for contributions established in  
16 amount by the individual participant pursuant to a schedule of  
17 suggested fees as provided for in the federal Act is not  
18 engaged in the business of selling tangible personal property  
19 at retail with respect to such transactions.

20 "Purchaser" means anyone who, through a sale at retail,  
21 acquires the ownership of or title to tangible personal  
22 property for a valuable consideration.

23 "Reseller of motor fuel" means any person engaged in the  
24 business of selling or delivering or transferring title of  
25 motor fuel to another person other than for use or consumption.  
26 No person shall act as a reseller of motor fuel within this

1 State without first being registered as a reseller pursuant to  
2 Section 2c or a retailer pursuant to Section 2a.

3 "Selling price" or the "amount of sale" means the  
4 consideration for a sale valued in money whether received in  
5 money or otherwise, including cash, credits, property, other  
6 than as hereinafter provided, and services, but not including  
7 the value of or credit given for traded-in tangible personal  
8 property where the item that is traded-in is of like kind and  
9 character as that which is being sold, and shall be determined  
10 without any deduction on account of the cost of the property  
11 sold, the cost of materials used, labor or service cost or any  
12 other expense whatsoever, but does not include charges that are  
13 added to prices by sellers on account of the seller's tax  
14 liability under this Act, or on account of the seller's duty to  
15 collect, from the purchaser, the tax that is imposed by the Use  
16 Tax Act, or, except as otherwise provided with respect to any  
17 cigarette tax imposed by a home rule unit, on account of the  
18 seller's tax liability under any local occupation tax  
19 administered by the Department, or, except as otherwise  
20 provided with respect to any cigarette tax imposed by a home  
21 rule unit on account of the seller's duty to collect, from the  
22 purchasers, the tax that is imposed under any local use tax  
23 administered by the Department ~~or on account of the seller's~~  
24 ~~tax liability under Section 8-11-1 of the Illinois Municipal~~  
25 ~~Code, as heretofore and hereafter amended, or on account of the~~  
26 ~~seller's tax liability under the County Retailers' Occupation~~

1 ~~Tax Act, or on account of the seller's tax liability under the~~  
2 ~~Home Rule Municipal Soft Drink Retailers' Occupation Tax, or on~~  
3 ~~account of the seller's tax liability under any tax imposed~~  
4 ~~under the "Regional Transportation Authority Act", approved~~  
5 ~~December 12, 1973.~~ Effective December 1, 1985, "selling price"  
6 shall include charges that are added to prices by sellers on  
7 account of the seller's tax liability under the Cigarette Tax  
8 Act, on account of the sellers' duty to collect, from the  
9 purchaser, the tax imposed under the Cigarette Use Tax Act, and  
10 on account of the seller's duty to collect, from the purchaser,  
11 any cigarette tax imposed by a home rule unit.

12 The phrase "like kind and character" shall be liberally  
13 construed (including but not limited to any form of motor  
14 vehicle for any form of motor vehicle, or any kind of farm or  
15 agricultural implement for any other kind of farm or  
16 agricultural implement), while not including a kind of item  
17 which, if sold at retail by that retailer, would be exempt from  
18 retailers' occupation tax and use tax as an isolated or  
19 occasional sale.

20 "Gross receipts" from the sales of tangible personal  
21 property at retail means the total selling price or the amount  
22 of such sales, as hereinbefore defined. In the case of charge  
23 and time sales, the amount thereof shall be included only as  
24 and when payments are received by the seller. Receipts or other  
25 consideration derived by a seller from the sale, transfer or  
26 assignment of accounts receivable to a wholly owned subsidiary

1 will not be deemed payments prior to the time the purchaser  
2 makes payment on such accounts.

3 "Department" means the Department of Revenue.

4 "Person" means any natural individual, firm, partnership,  
5 association, joint stock company, joint adventure, public or  
6 private corporation, limited liability company, or a receiver,  
7 executor, trustee, guardian or other representative appointed  
8 by order of any court.

9 The isolated or occasional sale of tangible personal  
10 property at retail by a person who does not hold himself out as  
11 being engaged (or who does not habitually engage) in selling  
12 such tangible personal property at retail, or a sale through a  
13 bulk vending machine, does not constitute engaging in a  
14 business of selling such tangible personal property at retail  
15 within the meaning of this Act; provided that any person who is  
16 engaged in a business which is not subject to the tax imposed  
17 by this Act because of involving the sale of or a contract to  
18 sell real estate or a construction contract to improve real  
19 estate or a construction contract to engineer, install, and  
20 maintain an integrated system of products, but who, in the  
21 course of conducting such business, transfers tangible  
22 personal property to users or consumers in the finished form in  
23 which it was purchased, and which does not become real estate  
24 or was not engineered and installed, under any provision of a  
25 construction contract or real estate sale or real estate sales  
26 agreement entered into with some other person arising out of or

1 because of such nontaxable business, is engaged in the business  
2 of selling tangible personal property at retail to the extent  
3 of the value of the tangible personal property so transferred.  
4 If, in such a transaction, a separate charge is made for the  
5 tangible personal property so transferred, the value of such  
6 property, for the purpose of this Act, shall be the amount so  
7 separately charged, but not less than the cost of such property  
8 to the transferor; if no separate charge is made, the value of  
9 such property, for the purposes of this Act, is the cost to the  
10 transferor of such tangible personal property. Construction  
11 contracts for the improvement of real estate consisting of  
12 engineering, installation, and maintenance of voice, data,  
13 video, security, and all telecommunication systems do not  
14 constitute engaging in a business of selling tangible personal  
15 property at retail within the meaning of this Act if they are  
16 sold at one specified contract price.

17 A person who holds himself or herself out as being engaged  
18 (or who habitually engages) in selling tangible personal  
19 property at retail is a person engaged in the business of  
20 selling tangible personal property at retail hereunder with  
21 respect to such sales (and not primarily in a service  
22 occupation) notwithstanding the fact that such person designs  
23 and produces such tangible personal property on special order  
24 for the purchaser and in such a way as to render the property  
25 of value only to such purchaser, if such tangible personal  
26 property so produced on special order serves substantially the

1 same function as stock or standard items of tangible personal  
2 property that are sold at retail.

3 Persons who engage in the business of transferring tangible  
4 personal property upon the redemption of trading stamps are  
5 engaged in the business of selling such property at retail and  
6 shall be liable for and shall pay the tax imposed by this Act  
7 on the basis of the retail value of the property transferred  
8 upon redemption of such stamps.

9 "Bulk vending machine" means a vending machine, containing  
10 unsorted confections, nuts, toys, or other items designed  
11 primarily to be used or played with by children which, when a  
12 coin or coins of a denomination not larger than \$0.50 are  
13 inserted, are dispensed in equal portions, at random and  
14 without selection by the customer.

15 (Source: P.A. 92-213, eff. 1-1-02.)

16 Section 35. If and only if Senate Bill 2052 of the 95th  
17 General Assembly becomes law, then the Southwestern Illinois  
18 Development Authority Act is amended by changing Section 3 as  
19 follows:

20 (70 ILCS 520/3) (from Ch. 85, par. 6153)

21 Sec. 3. The following terms, whenever used or referred to  
22 in this Act, shall have the following meanings, except in such  
23 instances where the context may clearly indicate otherwise:

24 (a) "Authority" means the Southwestern Illinois

1 Development Authority created by this Act.

2 (b) "Governmental agency" means any federal, State or local  
3 governmental body, and any agency or instrumentality thereof,  
4 corporate or otherwise.

5 (c) "Person" means any natural person, firm, partnership,  
6 corporation, both domestic and foreign, company, association  
7 or joint stock association and includes any trustee, receiver,  
8 assignee or personal representative thereof.

9 (d) "Revenue bond" means any bond issued by the Authority  
10 the principal and interest of which is payable solely from  
11 revenues or income derived from any project or activity of the  
12 Authority.

13 (e) "Board" means the Southwestern Illinois Development  
14 Authority Board of Directors.

15 (f) "Governor" means the Governor of the State of Illinois.

16 (g) "City" means any city, village, incorporated town or  
17 township within the geographical territory of the Authority.

18 (h) "Industrial project" means (1) a capital project,  
19 including one or more buildings and other structures,  
20 improvements, machinery and equipment whether or not on the  
21 same site or sites now existing or hereafter acquired, suitable  
22 for use by any manufacturing, industrial, research,  
23 transportation or commercial enterprise including but not  
24 limited to use as a factory, mill, processing plant, assembly  
25 plant, packaging plant, fabricating plant, office building,  
26 industrial distribution center, warehouse, repair, overhaul or

1 service facility, freight terminal, research facility, test  
2 facility, railroad facility, solid waste and wastewater  
3 treatment and disposal sites and other pollution control  
4 facilities, resource or waste reduction, recovery, treatment  
5 and disposal facilities, and including also the sites thereof  
6 and other rights in land therefor whether improved or  
7 unimproved, site preparation and landscaping and all  
8 appurtenances and facilities incidental thereto such as  
9 utilities, access roads, railroad sidings, truck docking and  
10 similar facilities, parking facilities, dockage, wharfage,  
11 railroad roadbed, track, trestle, depot, terminal, switching  
12 and signaling equipment or related equipment and other  
13 improvements necessary or convenient thereto; or (2) any land,  
14 buildings, machinery or equipment comprising an addition to or  
15 renovation, rehabilitation or improvement of any existing  
16 capital project.

17 (i) "Housing project" or "residential project" includes a  
18 specific work or improvement undertaken to provide dwelling  
19 accommodations, including the acquisition, construction or  
20 rehabilitation of lands, buildings and community facilities  
21 and in connection therewith to provide nonhousing facilities  
22 which are an integral part of a planned large-scale project or  
23 new community.

24 (j) "Commercial project" means any project, including but  
25 not limited to one or more buildings and other structures,  
26 improvements, machinery and equipment whether or not on the

1 same site or sites now existing or hereafter acquired, suitable  
2 for use by any retail or wholesale concern, distributorship or  
3 agency, any cultural facilities of a for-profit or  
4 not-for-profit type including but not limited to educational,  
5 theatrical, recreational and entertainment, sports facilities,  
6 racetracks, stadiums, convention centers, exhibition halls,  
7 arenas, opera houses and theaters, waterfront improvements,  
8 swimming pools, boat storage, moorage, docking facilities,  
9 restaurants, velodromes, coliseums, sports training  
10 facilities, parking facilities, terminals, hotels and motels,  
11 gymnasiums, medical facilities and port facilities.

12 (k) "Unit of local government" means a unit of local  
13 government, as defined in Section 1 of Article VII of the  
14 Illinois Constitution, and any local public entity as that term  
15 is defined in the Local Governmental and Governmental Employees  
16 Tort Immunity Act and such unit of local government or local  
17 public entity is located within the geographical territory of  
18 the Authority or, for the purposes of the Flood Prevention  
19 District Act, is located within Monroe County, Illinois.

20 (l) "Local government project" means a project or other  
21 undertaking that is authorized or required by law to be  
22 acquired, constructed, reconstructed, equipped, improved,  
23 rehabilitated, replaced, maintained, or otherwise undertaken  
24 in any manner by a unit of local government.

25 (m) "Local government security" means a bond, note, or  
26 other evidence of indebtedness that a unit of local government

1 is legally authorized to issue for the purpose of financing a  
2 public purpose project or to issue for any other lawful public  
3 purpose under any provision of the Illinois Constitution or  
4 laws of this State, whether the obligation is payable from  
5 taxes or revenues, rates, charges, assessments,  
6 appropriations, grants, or any other lawful source or  
7 combination thereof, and specifically includes, without  
8 limitation, obligations under any lease or lease purchase  
9 agreement lawfully entered into by the unit of local government  
10 for the acquisition or use of facilities or equipment.

11 (n) "Project" means an industrial, housing, residential,  
12 commercial, local government, or service project or any  
13 combination thereof provided that all uses shall fall within  
14 one of the categories described above. Any project, of any  
15 nature whatsoever, shall automatically include all site  
16 improvements and new construction involving sidewalks, sewers,  
17 solid waste and wastewater treatment and disposal sites and  
18 other pollution control facilities, resource or waste  
19 reduction, recovery, treatment and disposal facilities, parks,  
20 open spaces, wildlife sanctuaries, streets, highways and  
21 runways.

22 (o) "Lease agreement" shall mean an agreement whereby a  
23 project acquired by the Authority by purchase, gift or lease is  
24 leased to any person or corporation which will use or cause the  
25 project to be used as a project as heretofore defined upon  
26 terms providing for lease rental payments at least sufficient

1 to pay when due all principal of and interest and premium, if  
2 any, on any bonds, notes or other evidences of indebtedness of  
3 the Authority issued with respect to such project, providing  
4 for the maintenance, insurance and operation of the project on  
5 terms satisfactory to the Authority and providing for  
6 disposition of the project upon termination of the lease term,  
7 including purchase options or abandonment of the premises, with  
8 such other terms as may be deemed desirable by the Authority.

9 (p) "Loan agreement" means any agreement pursuant to which  
10 the Authority agrees to loan the proceeds of its bonds, notes  
11 or other evidences of indebtedness issued with respect to a  
12 project to any person or corporation which will use or cause  
13 the project to be used as a project as heretofore defined upon  
14 terms providing for loan repayment installments at least  
15 sufficient to pay when due all principal of and interest and  
16 premium, if any, on any bonds, notes or other evidences of  
17 indebtedness of the Authority issued with respect to the  
18 project, providing for maintenance, insurance and operation of  
19 the project on terms satisfactory to the Authority and  
20 providing for other matters as may be deemed advisable by the  
21 Authority.

22 (q) "Financial aid" means the expenditure of Authority  
23 funds or funds provided by the Authority through the issuance  
24 of its revenue bonds, notes or other evidences of indebtedness  
25 for the development, construction, acquisition or improvement  
26 of a project.

1           (r) "Costs incurred in connection with the development,  
2 construction, acquisition or improvement of a project" means  
3 the following: the cost of purchase and construction of all  
4 lands and improvements in connection therewith and equipment  
5 and other property, rights, easements and franchises acquired  
6 which are deemed necessary for such construction; financing  
7 charges; interest costs with respect to bonds, notes and other  
8 evidences of indebtedness of the Authority prior to and during  
9 construction and for a period of 6 months thereafter;  
10 engineering and legal expenses; the costs of plans,  
11 specifications, surveys and estimates of costs and other  
12 expenses necessary or incident to determining the feasibility  
13 or practicability of any project, together with such other  
14 expenses as may be necessary or incident to the financing,  
15 insuring, acquisition and construction of a specific project  
16 and the placing of the same in operation.

17           (s) "Terminal" means a public place, station or depot for  
18 receiving and delivering passengers, baggage, mail, freight or  
19 express matter and any combination thereof in connection with  
20 the transportation of persons and property on water or land or  
21 in the air.

22           (t) "Terminal facilities" means all land, buildings,  
23 structures, improvements, equipment and appliances useful in  
24 the operation of public warehouse, storage and transportation  
25 facilities and industrial, manufacturing or commercial  
26 activities for the accommodation of or in connection with

1 commerce by water or land or in the air or useful as an aid, or  
2 constituting an advantage or convenience to, the safe landing,  
3 taking off and navigation of aircraft or the safe and efficient  
4 operation or maintenance of a public airport.

5 (u) "Port facilities" means all public structures, except  
6 terminal facilities as defined herein, that are in, over, under  
7 or adjacent to navigable waters and are necessary for or  
8 incident to the furtherance of water commerce and includes the  
9 widening and deepening of slips, harbors and navigable waters.

10 (v) "Airport" means any locality, either land or water,  
11 which is used or designed for the landing and taking off of  
12 aircraft or for the location of runways, landing fields,  
13 aerodromes, hangars, buildings, structures, airport roadways  
14 and other facilities.

15 (Source: P.A. 85-591; 86-1455.)

16 Section 45. If and only if Senate Bill 2052 of the 95th  
17 General Assembly becomes law, then the Metro-East Sanitary  
18 District Act of 1974 is amended by changing Section 5-1 as  
19 follows:

20 (70 ILCS 2905/5-1) (from Ch. 42, par. 505-1)

21 Sec. 5-1. (a) The board may levy and collect taxes for  
22 corporate purposes. Such taxes shall be levied by ordinance  
23 specifying the purposes for which the same are required, and a  
24 certified copy of such ordinance shall be filed with the county

1 clerk of the county in which the predecessor district was  
2 organized, on or before the second Tuesday in August, as  
3 provided in Section 122 of the Revenue Act of 1939 (superseded  
4 by Section 14-10 of the Property Tax Code). Any excess funds  
5 accumulated prior to January 1, 2008 by the sanitary district  
6 that are collected by levying taxes pursuant to 745 ILCS  
7 10/9-107 may be expended by the sanitary district to maintain,  
8 repair, improve, or construct levees or any part of the levee  
9 system and to provide capital moneys for levee or river-related  
10 scientific studies, including the construction of facilities  
11 for such purposes. For the purposes of this subsection (a), the  
12 excess funds withdrawn from the Local Governmental and  
13 Governmental Employees Tort Immunity Fund may not be more than  
14 90% of the balance of that fund on December 31, 2007. After the  
15 assessment for the current year has been equalized by the  
16 Department of Revenue, the board shall, as soon as may be,  
17 ascertain and certify to such county clerk the total value of  
18 all taxable property lying within the corporate limits of such  
19 districts in each of the counties in which the district is  
20 situated, as the same is assessed and equalized for tax  
21 purposes for the current year. The county clerk shall ascertain  
22 the rate per cent which, upon the total valuation of all such  
23 property, ascertained as above stated, would produce a net  
24 amount not less than the amount so directed to be levied; and  
25 the clerk shall, without delay, certify under his signature and  
26 seal of office to the county clerk of such other county, in

1 which a portion of the district is situated such rate per cent;  
2 and it shall be the duty of each of the county clerks to extend  
3 such tax in a separate column upon the books of the collector  
4 or collectors of the county taxes for the counties, against all  
5 property in their respective counties, within the limits of the  
6 district. All taxes so levied and certified shall be collected  
7 and enforced in the same manner, and by the same officers as  
8 county taxes, and shall be paid over by the officers collecting  
9 the same, to the treasurer of the sanitary district, in the  
10 manner and at the time provided by the Property Tax Code. The  
11 aggregate amount of taxes levied for any one year, exclusive of  
12 the amount levied for the payment of bonded indebtedness and  
13 interest thereon, shall not exceed the rate of .20%, or the  
14 rate limitation of the predecessor district in effect on July  
15 1, 1967, or the rate limitation set by subsection (b) whichever  
16 is greater, of value, as equalized or assessed by the  
17 Department of Revenue. The foregoing limitations upon tax rates  
18 may be increased or decreased under the referendum provisions  
19 of the Property Tax Code.

20 (b) The tax rate limit of the district may be changed to  
21 .478% of the value of property as equalized or assessed by the  
22 Department of Revenue for a period of 5 years and to .312% of  
23 such value thereafter upon the approval of the electors of the  
24 district of such a proposition submitted at any regular  
25 election pursuant to a resolution of the board of commissioners  
26 or submitted at an election for officers of the counties of St.

1 Clair and Madison in accordance with the general election law  
 2 upon a petition signed by not fewer than 10% of the legal  
 3 voters in the district, which percentage shall be determined on  
 4 the basis of the number of votes cast at the last general  
 5 election preceding the filing of such petition specifying the  
 6 tax rate to be submitted. Such petition shall be filed with the  
 7 executive director of the district not more than 10 months nor  
 8 less than 5 months prior to the election at which the question  
 9 is to be submitted to the voters of the district, and its  
 10 validity shall be determined as provided by the general  
 11 election law. The executive director shall certify the question  
 12 to the proper election officials, who shall submit the question  
 13 to the voters.

14 Notice shall be given in the manner provided by the general  
 15 election law.

16 Referenda initiated under this subsection shall be subject  
 17 to the provisions and limitations of the general election law.

18 The question shall be in substantially the following form:

19 -----

20 Shall the maximum tax rate  
 21 for the Metro-East Sanitary  
 22 District be established at YES  
 23 .478% of the equalized assessed  
 24 value for 5 years and then at .312% -----  
 25 of the equalized assessed value  
 26 thereafter, instead of .2168%, the NO

1 maximum rate otherwise applicable  
2 to the next taxes to be extended?

3 -----

4 The ballot shall have printed thereon, but not as a part of  
5 the proposition submitted, an estimate of the approximate  
6 amount extendable under the proposed rate and of the  
7 approximate amount extendable under the rate otherwise  
8 applicable to the next taxes to be extended, such amounts being  
9 computed upon the last known equalized assessed value;  
10 provided, that any error, miscalculation or inaccuracy in  
11 computing such amounts shall not invalidate or affect the  
12 validity of any tax rate limit so adopted.

13 If a majority of all ballots cast on such proposition shall  
14 be in favor of the proposition, the tax rate limit so  
15 established shall become effective with the levy next following  
16 the referendum; provided that nothing in this subsection shall  
17 be construed as precluding the extension of taxes at rates less  
18 than that authorized by such referendum.

19 Except as herein otherwise provided, the referenda  
20 authorized by the terms of this subsection shall be conducted  
21 in all respects in the manner provided by the general election  
22 law.

23 (Source: P.A. 88-670, eff. 12-2-94.)

24 Section 50. If and only if Senate Bill 2052 of the 95th  
25 General Assembly becomes law, then the Local Governmental and

1 Governmental Employees Tort Immunity Act is amended by changing  
2 Section 9-107 as follows:

3 (745 ILCS 10/9-107) (from Ch. 85, par. 9-107)

4 Sec. 9-107. Policy; tax levy.

5 (a) The General Assembly finds that the purpose of this  
6 Section is to provide an extraordinary tax for funding expenses  
7 relating to (i) tort liability, (ii) liability relating to  
8 actions brought under the federal Comprehensive Environmental  
9 Response, Compensation, and Liability Act of 1980 or the  
10 Environmental Protection Act, but only until December 31, 2010,  
11 (iii) insurance, and (iv) risk management programs. Thus, the  
12 tax has been excluded from various limitations otherwise  
13 applicable to tax levies. Notwithstanding the extraordinary  
14 nature of the tax authorized by this Section, however, it has  
15 become apparent that some units of local government are using  
16 the tax revenue to fund expenses more properly paid from  
17 general operating funds. These uses of the revenue are  
18 inconsistent with the limited purpose of the tax authorization.

19 Therefore, the General Assembly declares, as a matter of  
20 policy, that (i) the use of the tax revenue authorized by this  
21 Section for purposes not expressly authorized under this Act is  
22 improper and (ii) the provisions of this Section shall be  
23 strictly construed consistent with this declaration and the  
24 Act's express purposes.

25 (b) A local public entity may annually levy or have levied

1 on its behalf taxes upon all taxable property within its  
2 territory at a rate that will produce a sum that will be  
3 sufficient to: (i) pay the cost of insurance, individual or  
4 joint self-insurance (including reserves thereon), including  
5 all operating and administrative costs and expenses directly  
6 associated therewith, claims services and risk management  
7 directly attributable to loss prevention and loss reduction,  
8 legal services directly attributable to the insurance,  
9 self-insurance, or joint self-insurance program, and  
10 educational, inspectional, and supervisory services directly  
11 relating to loss prevention and loss reduction, participation  
12 in a reciprocal insurer as provided in Sections 72, 76, and 81  
13 of the Illinois Insurance Code, or participation in a  
14 reciprocal insurer, all as provided in settlements or judgments  
15 under Section 9-102, including all costs and reserves directly  
16 attributable to being a member of an insurance pool, under  
17 Section 9-103; (ii) pay the costs of and principal and interest  
18 on bonds issued under Section 9-105; (iii) pay judgments and  
19 settlements under Section 9-104 of this Act; (iv) discharge  
20 obligations under Section 34-18.1 of the School Code; (v) pay  
21 judgments and settlements under the federal Comprehensive  
22 Environmental Response, Compensation, and Liability Act of  
23 1980 and the Environmental Protection Act, but only until  
24 December 31, 2010; (vi) pay the costs authorized by the  
25 Metro-East Sanitary District Act of 1974 as provided in  
26 subsection (a) of Section 5-1 of that Act (70 ILCS 2905/5-1);

1 and (vii) ~~(vi)~~ pay the cost of risk management programs.  
2 Provided it complies with any other applicable statutory  
3 requirements, the local public entity may self-insure and  
4 establish reserves for expected losses for any property damage  
5 or for any liability or loss for which the local public entity  
6 is authorized to levy or have levied on its behalf taxes for  
7 the purchase of insurance or the payment of judgments or  
8 settlements under this Section. The decision of the board to  
9 establish a reserve shall be based on reasonable actuarial or  
10 insurance underwriting evidence and subject to the limits and  
11 reporting provisions in Section 9-103.

12 If a school district was a member of a  
13 joint-self-health-insurance cooperative that had more  
14 liability in outstanding claims than revenue to pay those  
15 claims, the school board of that district may by resolution  
16 make a one-time transfer from any fund in which tort immunity  
17 moneys are maintained to the fund or funds from which payments  
18 to a joint-self-health-insurance cooperative can be or have  
19 been made of an amount not to exceed the amount of the  
20 liability claim that the school district owes to the  
21 joint-self-health-insurance cooperative or that the school  
22 district paid within the 2 years immediately preceding the  
23 effective date of this amendatory Act of the 92nd General  
24 Assembly.

25 Funds raised pursuant to this Section shall only be used  
26 for the purposes specified in this Act, including protection

1 against and reduction of any liability or loss described  
2 hereinabove and under Federal or State common or statutory law,  
3 the Workers' Compensation Act, the Workers' Occupational  
4 Diseases Act and the Unemployment Insurance Act. Funds raised  
5 pursuant to this Section may be invested in any manner in which  
6 other funds of local public entities may be invested under  
7 Section 2 of the Public Funds Investment Act. Interest on such  
8 funds shall be used only for purposes for which the funds can  
9 be used or, if surplus, must be used for abatement of property  
10 taxes levied by the local taxing entity.

11 A local public entity may enter into intergovernmental  
12 contracts with a term of not to exceed 12 years for the  
13 provision of joint self-insurance which contracts may include  
14 an obligation to pay a proportional share of a general  
15 obligation or revenue bond or other debt instrument issued by a  
16 local public entity which is a party to the intergovernmental  
17 contract and is authorized by the terms of the contract to  
18 issue the bond or other debt instrument. Funds due under such  
19 contracts shall not be considered debt under any constitutional  
20 or statutory limitation and the local public entity may levy or  
21 have levied on its behalf taxes to pay for its proportional  
22 share under the contract. Funds raised pursuant to  
23 intergovernmental contracts for the provision of joint  
24 self-insurance may only be used for the payment of any cost,  
25 liability or loss against which a local public entity may  
26 protect itself or self-insure pursuant to Section 9-103 or for

1 the payment of which such entity may levy a tax pursuant to  
2 this Section, including tort judgments or settlements, costs  
3 associated with the issuance, retirement or refinancing of the  
4 bonds or other debt instruments, the repayment of the principal  
5 or interest of the bonds or other debt instruments, the costs  
6 of the administration of the joint self-insurance fund,  
7 consultant, and risk care management programs or the costs of  
8 insurance. Any surplus returned to the local public entity  
9 under the terms of the intergovernmental contract shall be used  
10 only for purposes set forth in subsection (a) of Section 9-103  
11 and Section 9-107 or for abatement of property taxes levied by  
12 the local taxing entity.

13 Any tax levied under this Section shall be levied and  
14 collected in like manner with the general taxes of the entity  
15 and shall be exclusive of and in addition to the amount of tax  
16 that entity is now or may hereafter be authorized to levy for  
17 general purposes under any statute which may limit the amount  
18 of tax which that entity may levy for general purposes. The  
19 county clerk of the county in which any part of the territory  
20 of the local taxing entity is located, in reducing tax levies  
21 under the provisions of any Act concerning the levy and  
22 extension of taxes, shall not consider any tax provided for by  
23 this Section as a part of the general tax levy for the purposes  
24 of the entity nor include such tax within any limitation of the  
25 percent of the assessed valuation upon which taxes are required  
26 to be extended for such entity.

1           With respect to taxes levied under this Section, either  
2 before, on, or after the effective date of this amendatory Act  
3 of 1994:

4           (1) Those taxes are excepted from and shall not be  
5 included within the rate limitation imposed by law on taxes  
6 levied for general corporate purposes by the local public  
7 entity authorized to levy a tax under this Section.

8           (2) Those taxes that a local public entity has levied  
9 in reliance on this Section and that are excepted under  
10 paragraph (1) from the rate limitation imposed by law on  
11 taxes levied for general corporate purposes by the local  
12 public entity are not invalid because of any provision of  
13 the law authorizing the local public entity's tax levy for  
14 general corporate purposes that may be construed or may  
15 have been construed to restrict or limit those taxes  
16 levied, and those taxes are hereby validated. This  
17 validation of taxes levied applies to all cases pending on  
18 or after the effective date of this amendatory Act of 1994.

19           (3) Paragraphs (1) and (2) do not apply to a hospital  
20 organized under Article 170 or 175 of the Township Code,  
21 under the Town Hospital Act, or under the Township  
22 Non-Sectarian Hospital Act and do not give any authority to  
23 levy taxes on behalf of such a hospital in excess of the  
24 rate limitation imposed by law on taxes levied for general  
25 corporate purposes. A hospital organized under Article 170  
26 or 175 of the Township Code, under the Town Hospital Act,

1 or under the Township Non-Sectarian Hospital Act is not  
2 prohibited from levying taxes in support of tort liability  
3 bonds if the taxes do not cause the hospital's aggregate  
4 tax rate from exceeding the rate limitation imposed by law  
5 on taxes levied for general corporate purposes.

6 Revenues derived from such tax shall be paid to the  
7 treasurer of the local taxing entity as collected and used for  
8 the purposes of this Section and of Section 9-102, 9-103, 9-104  
9 or 9-105, as the case may be. If payments on account of such  
10 taxes are insufficient during any year to meet such purposes,  
11 the entity may issue tax anticipation warrants against the  
12 current tax levy in the manner provided by statute.

13 (Source: P.A. 95-244, eff. 8-17-07.)

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