



Rep. David R. Leitch

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LRB095 08359 RLJ 52088 a

1 AMENDMENT TO SENATE BILL 1290

2 AMENDMENT NO. _____. Amend Senate Bill 1290 by replacing
3 everything after the enacting clause with the following:

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

6 (55 ILCS 5/5-1006.5)

7 Sec. 5-1006.5. Special County Retailers' Occupation Tax
8 For Public Safety, Public Facilities, 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, public facility, or transportation purposes
16 in that county, if a proposition for the tax has been submitted

1 to the electors of that county and approved by a majority of
2 those voting on the question. If imposed, this tax shall be
3 imposed only in one-quarter percent increments. By resolution,
4 the county board may order the proposition to be submitted at
5 any election. If the tax is imposed for transportation purposes
6 for expenditures for public highways or as authorized under the
7 Illinois Highway Code, the county board must publish notice of
8 the existence of its long-range highway transportation plan as
9 required or described in Section 5-301 of the Illinois Highway
10 Code and must make the plan publicly available prior to
11 approval of the ordinance or resolution imposing the tax. If
12 the tax is imposed for transportation purposes for expenditures
13 for passenger rail transportation, the county board must
14 publish notice of the existence of its long-range passenger
15 rail transportation plan and must make the plan publicly
16 available prior to approval of the ordinance or resolution
17 imposing the tax. The county clerk shall certify the question
18 to the proper election authority, who shall submit the
19 proposition at an election in accordance with the general
20 election law.

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

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

26 As additional information on the ballot below the

1 question shall appear the following:

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

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

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

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

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

23 For the purposes of the paragraph, "public safety
24 purposes" means crime prevention, detention, fire
25 fighting, police, medical, ambulance, or other emergency
26 services.

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

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

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

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."

13 The county board may also opt to establish a sunset
14 provision at which time the additional sales tax would
15 cease being collected, if not terminated earlier by a vote
16 of the county board. If the county board votes to include a
17 sunset provision, the proposition for transportation
18 purposes shall be in substantially the following form:

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

23 As additional information on the ballot below the
24 question shall appear the following:

25 "This would mean that a consumer would pay an
26 additional (insert amount) in sales tax for every \$100 of

1 tangible personal property bought at retail. If imposed,
2 the additional tax would cease being collected at the end
3 of (insert number of years), if not terminated earlier by a
4 vote of the county board."

5 For the purposes of this paragraph, transportation
6 purposes means construction, maintenance, operation, and
7 improvement of public highways, any other purpose for which
8 a county may expend funds under the Illinois Highway Code,
9 and passenger rail transportation.

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

11 (3) The proposition for public facility purposes shall
12 be in substantially the following form:

13 "To pay for public facility purposes, shall (name of
14 county) be authorized to impose an increase on its share of
15 local sales taxes by (insert rate)?"

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."

21 The county board may also opt to establish a sunset
22 provision at which time the additional sales tax would
23 cease being collected, if not terminated earlier by a vote
24 of the county board. If the county board votes to include a
25 sunset provision, the proposition for public facility
26 purposes shall be in substantially the following form:

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

5 As additional information on the ballot below the
6 question shall appear the following:

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

13 For purposes of this Section, "public facilities
14 purposes" means the acquisition, development,
15 construction, reconstruction, rehabilitation, improvement,
16 financing, architectural planning, and installation of
17 capital facilities consisting of buildings, structures,
18 and durable equipment and for the acquisition and
19 improvement of real property and interest in real property
20 required, or expected to be required, in connection with
21 the public facilities, for use by the county for the
22 furnishing of governmental services to its citizens,
23 including but not limited to museums and nursing homes.

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

25 If a majority of the electors voting on the proposition
26 vote in favor of it, the county may impose the tax. A county

1 may not submit more than one proposition authorized by this
2 Section to the electors at any one time.

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

1 powers, and duties, (ii) be subject to the same conditions,
2 restrictions, limitations, penalties, and definitions of
3 terms, and (iii) employ the same modes of procedure as are
4 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
5 1n, 2 through 2-70 (in respect to all provisions contained in
6 those Sections other than the State rate of tax), 2a, 2b, 2c, 3
7 (except provisions relating to transaction returns and quarter
8 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
9 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of
10 the Retailers' Occupation Tax Act and Section 3-7 of the
11 Uniform Penalty and Interest Act as if those provisions were
12 set forth in this Section.

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

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

1 Retailers' Occupation Tax Fund.

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

1 and definitions of terms, and (iii) employ the same modes of
2 procedure as are prescribed in Sections 2 (except that the
3 reference to State in the definition of supplier maintaining a
4 place of business in this State shall mean the county), 2a, 2b,
5 2c, 3 through 3-50 (in respect to all provisions therein other
6 than the State rate of tax), 4 (except that the reference to
7 the State shall be to the county), 5, 7, 8 (except that the
8 jurisdiction to which the tax shall be a debt to the extent
9 indicated in that Section 8 shall be the county), 9 (except as
10 to the disposition of taxes and penalties collected), 10, 11,
11 12 (except the reference therein to Section 2b of the
12 Retailers' Occupation Tax Act), 13 (except that any reference
13 to the State shall mean the county), Section 15, 16, 17, 18, 19
14 and 20 of the Service Occupation Tax Act and Section 3-7 of the
15 Uniform Penalty and Interest Act, as fully as if those
16 provisions were set forth herein.

17 Persons subject to any tax imposed under the authority
18 granted in this subsection may reimburse themselves for their
19 serviceman's tax liability by separately stating the tax as an
20 additional charge, which charge may be stated in combination,
21 in a single amount, with State tax that servicemen are
22 authorized to collect under the Service Use Tax Act, in
23 accordance with such bracket schedules as the Department may
24 prescribe.

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

1 credit memorandum, the Department shall notify the State
2 Comptroller, who shall cause the warrant 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 Fund.

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

11 (c) The Department shall immediately pay over to the State
12 Treasurer, ex officio, as trustee, all taxes and penalties
13 collected under this Section to be deposited into the County
14 Public Safety or Transportation Retailers' Occupation Tax
15 Fund, which shall be an unappropriated trust fund held outside
16 of the State treasury. On or before the 25th day of each
17 calendar month, the Department shall prepare and certify to the
18 Comptroller the disbursement of stated sums of money to the
19 counties from which retailers have paid taxes or penalties to
20 the Department during the second preceding calendar month. The
21 amount to be paid to each county, and deposited by the county
22 into its special fund created for the purposes of this Section,
23 shall be the amount (not including credit memoranda) collected
24 under this Section during the second preceding calendar month
25 by the Department plus an amount the Department determines is
26 necessary to offset any amounts that were erroneously paid to a

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

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

1 (d) For the purpose of determining the local governmental
2 unit whose tax is applicable, a retail sale by a producer of
3 coal or another mineral mined in Illinois is a sale at retail
4 at the place where the coal or other mineral mined in Illinois
5 is extracted from the earth. This paragraph does not apply to
6 coal or another mineral when it is delivered or shipped by the
7 seller to the purchaser at a point outside Illinois so that the
8 sale is exempt under the United States Constitution as a sale
9 in interstate or foreign commerce.

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

14 (e-5) If a county imposes a tax under this Section, the
15 county board may, by ordinance, discontinue or lower the rate
16 of the tax. If the county board lowers the tax rate or
17 discontinues the tax, a referendum must be held in accordance
18 with subsection (a) of this Section in order to increase the
19 rate of the tax or to reimpose the discontinued tax.

20 (f) Beginning April 1, 1998, the results of any election
21 authorizing a proposition to impose a tax under this Section or
22 effecting a change in the rate of tax, or any ordinance
23 lowering the rate or discontinuing the tax, shall be certified
24 by the county clerk and filed with the Illinois Department of
25 Revenue either (i) on or before the first day of April,
26 whereupon the Department shall proceed to administer and

1 enforce the tax as of the first day of July next following the
2 filing; or (ii) on or before the first day of October,
3 whereupon the Department shall proceed to administer and
4 enforce the tax as of the first day of January next following
5 the filing.

6 (g) When certifying the amount of a monthly disbursement to
7 a county under this Section, the Department shall increase or
8 decrease the amounts by an amount necessary to offset any
9 miscalculation of previous disbursements. The offset amount
10 shall be the amount erroneously disbursed within the previous 6
11 months from the time a miscalculation is discovered.

12 (h) This Section may be cited as the "Special County
13 Occupation Tax For Public Safety, Public Facilities, or
14 Transportation Law".

15 (i) For purposes of this Section, "public safety" includes,
16 but is not limited to, crime prevention, detention, fire
17 fighting, police, medical, ambulance, or other emergency
18 services. For the purposes of this Section, "transportation"
19 includes, but is not limited to, the construction, maintenance,
20 operation, and improvement of public highways, any other
21 purpose for which a county may expend funds under the Illinois
22 Highway Code, and passenger rail transportation. For the
23 purposes of this Section, "public facilities purposes"
24 includes, but is not limited to, the acquisition, development,
25 construction, reconstruction, rehabilitation, improvement,
26 financing, architectural planning, and installation of capital

1 facilities consisting of buildings, structures, and durable
2 equipment and for the acquisition and improvement of real
3 property and interest in real property required, or expected to
4 be required, in connection with the public facilities, for use
5 by the county for the furnishing of governmental services to
6 its citizens, including but not limited to museums and nursing
7 homes.

8 (j) The Department may promulgate rules to implement this
9 amendatory Act of the 95th General Assembly only to the extent
10 necessary to apply the existing rules for the Special County
11 Retailers' Occupation Tax for Public Safety to this new purpose
12 for public facilities.

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

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