



Sen. Pamela J. Althoff

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1 AMENDMENT TO HOUSE BILL 1322

2 AMENDMENT NO. _____. Amend House Bill 1322 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Transportation Development Partnership Act.

6 Section 5. Transportation Development Partnership Trust
7 Fund. The Transportation Development Partnership Trust Fund is
8 created as a trust fund in the State treasury. The State
9 Treasurer shall be the custodian of the Fund. If a county or an
10 entity created by an intergovernmental agreement between 2 or
11 more counties elects to participate under Section 5-1035.1 or
12 5-1006.5 of the Counties Code, the Department of Revenue shall
13 transfer to the State Treasurer all or a portion of the taxes
14 and penalties collected under the Special County Retailers
15 Occupation Tax For Public Safety or Transportation and under
16 the County Option Motor Fuel Tax into the Transportation

1 Development Partnership Trust Fund. The Treasurer shall
2 maintain a separate account for each participating county or
3 entity within the Fund. The Department of Transportation shall
4 administer the Fund.

5 Moneys in the Fund shall be used for transportation-related
6 projects. The Department of Transportation and participating
7 counties or entities must enter into an intergovernmental
8 agreement. The agreement shall:

9 (1) Describe the project to be constructed from the
10 Department of Transportation's statewide master plan for
11 transportation.

12 (2) Provide that the county or entity must raise a
13 significant percentage, no less than the amount
14 contributed by the State, of required federal matching
15 funds.

16 (3) Provide that the Secretary of Transportation must
17 certify that the county or entity has transferred the
18 required moneys to the Fund and the certification shall be
19 transmitted to each county or entity no more than 30 days
20 after the final deposit is made.

21 (4) Provide for the repayment, without interest, to the
22 county or entity of the moneys contributed by the county or
23 entity to the Fund.

24 (5) Provide that the repayment of the moneys
25 contributed by the county or the entity shall be made by
26 the Department of Transportation (i) no later than 10 years

1 after the certification by the Secretary of Transportation
2 that the money has been deposited by the county or entity
3 into the Fund or (ii) no more than 90 days after the
4 authorization for funds for transportation under Section 4
5 of the General Obligation Bond Act has increased by at
6 least \$5 billion over the amount authorized on the
7 effective date of the Act, whichever occurs earlier.

8 Section 10. The Counties Code is amended by changing
9 Sections 5-1006.5 and 5-1035.1 as follows:

10 (55 ILCS 5/5-1006.5)

11 Sec. 5-1006.5. Special County Retailers' Occupation Tax
12 For Public Safety, Public Facilities, or Transportation.

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

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

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

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

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

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

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

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

11 As additional information on the ballot below the
12 question shall appear the following:

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

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

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

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

26 "To pay for improvements to roads and other

1 transportation purposes, shall (name of county) be
2 authorized to impose an increase on its share of local
3 sales taxes by (insert rate)?"

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

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

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

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

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

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

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

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

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

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

12 As additional information on the ballot below the
13 question shall appear the following:

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

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

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

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

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

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

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

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

25 This additional tax may not be imposed on the sales of food
26 for human consumption that is to be consumed off the premises

1 where it is sold (other than alcoholic beverages, soft drinks,
2 and food which has been prepared for immediate consumption) and
3 prescription and non-prescription medicines, drugs, medical
4 appliances and insulin, urine testing materials, syringes, and
5 needles used by diabetics. The tax imposed by a county under
6 this Section and all civil penalties that may be assessed as an
7 incident of the tax shall be collected and enforced by the
8 Illinois Department of Revenue and deposited into a special
9 fund created for that purpose. The certificate of registration
10 that is issued by the Department to a retailer under the
11 Retailers' Occupation Tax Act shall permit the retailer to
12 engage in a business that is taxable without registering
13 separately with the Department under an ordinance or resolution
14 under this Section. The Department has full power to administer
15 and enforce this Section, to collect all taxes and penalties
16 due under this Section, to dispose of taxes and penalties so
17 collected in the manner provided in this Section, and to
18 determine all rights to credit memoranda arising on account of
19 the erroneous payment of a tax or penalty under this Section.
20 In the administration of and compliance with this Section, the
21 Department and persons who are subject to this Section shall
22 (i) have the same rights, remedies, privileges, immunities,
23 powers, and duties, (ii) be subject to the same conditions,
24 restrictions, limitations, penalties, and definitions of
25 terms, and (iii) employ the same modes of procedure as are
26 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,

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

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

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

24 (b) If a tax has been imposed under subsection (a), a
25 service occupation tax shall also be imposed at the same rate
26 upon all persons engaged, in the county, in the business of

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

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

13 Persons subject to any tax imposed under the authority
14 granted in this subsection may reimburse themselves for their
15 serviceman's 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 that servicemen are
18 authorized to collect under the Service Use Tax Act, in
19 accordance with such bracket schedules as the Department may
20 prescribe.

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

1 Treasurer out of the County Public Safety or Transportation
2 Retailers' Occupation Fund.

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

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

1 any amounts that were payable to a different taxing body but
2 were erroneously paid to the county. Within 10 days after
3 receipt by the Comptroller of the disbursement certification to
4 the counties provided for in this Section to be given to the
5 Comptroller by the Department, the Comptroller shall cause the
6 orders to be drawn for the respective amounts in accordance
7 with directions contained in the certification.

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

23 A county may direct, by ordinance, that all or a portion of
24 the taxes and penalties collected under the Special County
25 Retailers' Occupation Tax For Public Safety or Transportation
26 be deposited into the Transportation Development Partnership

1 Trust Fund.

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

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

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

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

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

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

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

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

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

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

14 (Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08;
15 95-1002, eff. 11-20-08.)

16 (55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

17 Sec. 5-1035.1. County Motor Fuel Tax Law. The county board
18 of the counties of DuPage, Kane and McHenry may, by an
19 ordinance or resolution adopted by an affirmative vote of a
20 majority of the members elected or appointed to the county
21 board, impose a tax upon all persons engaged in the county in
22 the business of selling motor fuel, as now or hereafter defined
23 in the Motor Fuel Tax Law, at retail for the operation of motor
24 vehicles upon public highways or for the operation of
25 recreational watercraft upon waterways. Kane County may exempt

1 diesel fuel from the tax imposed pursuant to this Section. The
2 tax may be imposed, in half-cent increments, at a rate not
3 exceeding 4 cents per gallon of motor fuel sold at retail
4 within the county for the purpose of use or consumption and not
5 for the purpose of resale. The proceeds from the tax shall be
6 used by the county solely for the purpose of operating,
7 constructing and improving public highways and waterways, and
8 acquiring real property and right-of-ways for public highways
9 and waterways within the county imposing the tax.

10 A tax imposed pursuant to this Section, and all civil
11 penalties that may be assessed as an incident thereof, shall be
12 administered, collected and enforced by the Illinois
13 Department of Revenue in the same manner as the tax imposed
14 under the Retailers' Occupation Tax Act, as now or hereafter
15 amended, insofar as may be practicable; except that in the
16 event of a conflict with the provisions of this Section, this
17 Section shall control. The Department of Revenue shall have
18 full power: to administer and enforce this Section; to collect
19 all taxes and penalties due hereunder; to dispose of taxes and
20 penalties so collected in the manner hereinafter provided; and
21 to determine all rights to credit memoranda arising on account
22 of the erroneous payment of tax or penalty hereunder.

23 Whenever the Department determines that a refund shall be
24 made under this Section to a claimant instead of issuing a
25 credit memorandum, the Department shall notify the State
26 Comptroller, who shall cause the order to be drawn for the

1 amount specified, and to the person named, in the notification
2 from the Department. The refund shall be paid by the State
3 Treasurer out of the County Option Motor Fuel Tax Fund.

4 The Department shall forthwith pay over to the State
5 Treasurer, ex-officio, as trustee, all taxes and penalties
6 collected hereunder, which shall be deposited into the County
7 Option Motor Fuel Tax Fund, a special fund in the State
8 Treasury which is hereby created. On or before the 25th day of
9 each calendar month, the Department shall prepare and certify
10 to the State Comptroller the disbursement of stated sums of
11 money to named counties for which taxpayers have paid taxes or
12 penalties hereunder to the Department during the second
13 preceding calendar month. The amount to be paid to each county
14 shall be the amount (not including credit memoranda) collected
15 hereunder from retailers within the county during the second
16 preceding calendar month by the Department, but not including
17 an amount equal to the amount of refunds made during the second
18 preceding calendar month by the Department on behalf of the
19 county; less the amount expended during the second preceding
20 month by the Department pursuant to appropriation from the
21 County Option Motor Fuel Tax Fund for the administration and
22 enforcement of this Section, which appropriation shall not
23 exceed \$200,000 for fiscal year 1990 and, for each year
24 thereafter, shall not exceed 2% of the amount deposited into
25 the County Option Motor Fuel Tax Fund during the preceding
26 fiscal year.

1 A county may direct, by ordinance, that all or a portion of
2 the taxes and penalties collected under the County Option Motor
3 Fuel Tax shall be deposited into the Transportation Development
4 Partnership Trust Fund.

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

9 An ordinance or resolution imposing a tax hereunder or
10 effecting a change in the rate thereof shall be effective on
11 the first day of the second calendar month next following the
12 month in which the ordinance or resolution is adopted and a
13 certified copy thereof is filed with the Department of Revenue,
14 whereupon the Department of Revenue shall proceed to administer
15 and enforce this Section on behalf of the county as of the
16 effective date of the ordinance or resolution. Upon a change in
17 rate of a tax levied hereunder, or upon the discontinuance of
18 the tax, the county board of the county shall, on or not later
19 than 5 days after the effective date of the ordinance or
20 resolution discontinuing the tax or effecting a change in rate,
21 transmit to the Department of Revenue a certified copy of the
22 ordinance or resolution effecting the change or
23 discontinuance.

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

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

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".