

AN ACT concerning local government.

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

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

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

Sec. 5. Creation; purpose.

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

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

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

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

(Source: 95SB2052eng.)

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

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

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

(Source: 95SB2052eng.)

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

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

- (1) To sue or be sued.
- (2) To apply for and accept gifts, grants, and loans from any public agency or private entity.
- (3) To enter into intergovernmental agreements to further ensure levee repair, levee construction or

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

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

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

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

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

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

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

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

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

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

Occupation Tax Fund to pay for bonds issued.

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

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

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

sanitary district within the territory of the flood prevention district.

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

(Source: 95SB2052eng.)

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

by diabetics.

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

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

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

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

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

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

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

the Flood Prevention Occupation Tax Fund.

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

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

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

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

(Source: 95SB2052eng.)

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

Sec. 30. Disbursement of federal funds.

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

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

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

(Source: 95SB2052eng.)



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

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

(Source: 95SB2052eng.)

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

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

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

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

(Source: 95SB2052eng.)

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

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

(Source: 95SB2052eng.)

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

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

(Source: 95SB2052eng.)

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

(5 ILCS 220/3.9)

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

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

(Source: 95SB2052eng.)

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

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

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

by this Act, and no credit for that tax is permitted if the watercraft or aircraft is subsequently sold by the retailer. "Use" does not mean the physical incorporation of tangible personal property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, into other tangible personal property (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing.

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

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

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

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

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

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

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

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

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

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

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

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



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

"Department" means the Department of Revenue.

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

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

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

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

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

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

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

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

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

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

1. A retailer having or maintaining within this State,

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

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

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

located in this State and only secondarily to bordering jurisdictions.

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

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

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

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

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

"Bulk vending machine" means a vending machine, containing

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

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

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

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

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

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

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

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

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

Nonreusable tangible personal property that is used by

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

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

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



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

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

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

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

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

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

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

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

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

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

"Department" means the Department of Revenue.

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

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

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

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

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

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

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

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

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

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

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

(a) "Authority" means the Southwestern Illinois

Development Authority created by this Act.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The question shall be in substantially the following form:

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



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

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

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

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

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

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

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

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

Sec. 9-107. Policy; tax levy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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