



Rep. Robert S. Molaro

Filed: 1/10/2005

09300SB2220ham001

LRB093 15875 BDD 54543 a

1 AMENDMENT TO SENATE BILL 2220

2 AMENDMENT NO. _____. Amend Senate Bill 2220 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 changing Section 11-74.3-6 as follows:

6 (65 ILCS 5/11-74.3-6)

7 Sec. 11-74.3-6. Business district revenue and obligations.

8 (a) If the corporate authorities of a municipality have
9 approved a business district development or redevelopment plan
10 and have elected to impose a tax by ordinance pursuant to
11 subsections (b), (c), or (d) of this Section, each year after
12 the date of the approval of the ordinance and until all
13 business district project costs and all municipal obligations
14 financing the business district project costs, if any, have
15 been paid in accordance with the business district development
16 or redevelopment plan, but in no event longer than 23 years
17 after the date of adoption of the ordinance approving the
18 business district development or redevelopment plan, all
19 amounts generated by the retailers' occupation tax and service
20 occupation tax shall be collected and the tax shall be enforced
21 by the Department of Revenue in the same manner as all
22 retailers' occupation taxes and service occupation taxes
23 imposed in the municipality imposing the tax and all amounts
24 generated by the hotel operators' occupation tax shall be

1 collected and the tax shall be enforced by the municipality in
2 the same manner as all hotel operators' occupation taxes
3 imposed in the municipality imposing the tax. The corporate
4 authorities of the municipality shall deposit the proceeds of
5 the taxes imposed under subsections (b), (c), and (d) into a
6 special fund held by the corporate authorities of the
7 municipality called the Business District Tax Allocation Fund
8 for the purpose of paying business district project costs and
9 obligations incurred in the payment of those costs.

10 (b) The corporate authorities of a municipality that has
11 established a business district under this Division 74.3 may,
12 by ordinance or resolution, impose a Business District
13 Retailers' Occupation Tax upon all persons engaged in the
14 business of selling tangible personal property, other than an
15 item of tangible personal property titled or registered with an
16 agency of this State's government, at retail in the business
17 district at a rate not to exceed 1% of the gross receipts from
18 the sales made in the course of such business, to be imposed
19 only in 0.25% increments. The tax may not be imposed on food
20 for human consumption that is to be consumed off the premises
21 where it is sold (other than alcoholic beverages, soft drinks,
22 and food that has been prepared for immediate consumption),
23 prescription and nonprescription medicines, drugs, medical
24 appliances, modifications to a motor vehicle for the purpose of
25 rendering it usable by a disabled person, and insulin, urine
26 testing materials, syringes, and needles used by diabetics, for
27 human use.

28 The tax imposed under this subsection and all civil
29 penalties that may be assessed as an incident thereof shall be
30 collected and enforced by the Department of Revenue. The
31 certificate of registration that is issued by the Department to
32 a retailer under the Retailers' Occupation Tax Act shall permit
33 the retailer to engage in a business that is taxable under any
34 ordinance or resolution enacted pursuant to this subsection

1 without registering separately with the Department under such
2 ordinance or resolution or under this subsection. The
3 Department of Revenue shall have full power to administer and
4 enforce this subsection; to collect all taxes and penalties due
5 under this subsection in the manner hereinafter provided; and
6 to determine all rights to credit memoranda arising on account
7 of the erroneous payment of tax or penalty under this
8 subsection. In the administration of, and compliance with, this
9 subsection, the Department and persons who are subject to this
10 subsection shall have the same rights, remedies, privileges,
11 immunities, powers and duties, and be subject to the same
12 conditions, restrictions, limitations, penalties, exclusions,
13 exemptions, and definitions of terms and employ the same modes
14 of procedure, as are prescribed in Sections 1, 1a through 1o, 2
15 through 2-65 (in respect to all provisions therein other than
16 the State rate of tax), 2c through 2h, 3 (except as to the
17 disposition of taxes and penalties collected), 4, 5, 5a, 5c,
18 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11,
19 12, 13, and 14 of the Retailers' Occupation Tax Act and all
20 provisions of the Uniform Penalty and Interest Act, as fully as
21 if those provisions were set forth herein.

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

29 Whenever the Department determines that a refund should be
30 made under this subsection to a claimant instead of issuing a
31 credit memorandum, the Department shall notify the State
32 Comptroller, who shall cause the order to be drawn for the
33 amount specified and to the person named in the notification
34 from the Department. The refund shall be paid by the State

1 Treasurer out of the business district retailers' occupation
2 tax fund.

3 The Department shall immediately pay over to the State
4 Treasurer, ex officio, as trustee, all taxes, penalties, and
5 interest collected under this subsection for deposit into the
6 business district retailers' occupation tax fund. On or before
7 the 25th day of each calendar month, the Department shall
8 prepare and certify to the Comptroller the disbursement of
9 stated sums of money to named municipalities from the business
10 district retailers' occupation tax fund, the municipalities to
11 be those from which retailers have paid taxes or penalties
12 under this subsection to the Department during the second
13 preceding calendar month. The amount to be paid to each
14 municipality shall be the amount (not including credit
15 memoranda) collected under this subsection during the second
16 preceding calendar month by the Department plus an amount the
17 Department determines is necessary to offset any amounts that
18 were erroneously paid to a different taxing body, and not
19 including an amount equal to the amount of refunds made during
20 the second preceding calendar month by the Department, less 2%
21 of that amount, which shall be deposited into the Tax
22 Compliance and Administration Fund and shall be used by the
23 Department, subject to appropriation, to cover the costs of the
24 Department in administering and enforcing the provisions of
25 this subsection, on behalf of such municipality, and not
26 including any amount that the Department determines is
27 necessary to offset any amounts that were payable to a
28 different taxing body but were erroneously paid to the
29 municipality. Within 10 days after receipt by the Comptroller
30 of the disbursement certification to the municipalities
31 provided for in this subsection to be given to the Comptroller
32 by the Department, the Comptroller shall cause the orders to be
33 drawn for the respective amounts in accordance with the
34 directions contained in the certification. The proceeds of the

1 tax paid to municipalities under this subsection shall be
2 deposited into the Business District Tax Allocation Fund by the
3 municipality.

4 An ordinance or resolution imposing or discontinuing the
5 tax under this subsection or effecting a change in the rate
6 thereof shall either (i) be adopted and a certified copy
7 thereof filed with the Department on or before the first day of
8 April, whereupon the Department, if all other requirements of
9 this subsection are met, shall proceed to administer and
10 enforce this subsection as of the first day of July next
11 following the adoption and filing; or (ii) be adopted and a
12 certified copy thereof filed with the Department on or before
13 the first day of October, whereupon, if all other requirements
14 of this subsection are met, the Department shall proceed to
15 administer and enforce this subsection as of the first day of
16 January next following the adoption and filing.

17 The Department of Revenue shall not administer or enforce
18 an ordinance imposing, discontinuing, or changing the rate of
19 the tax under this subsection, until the municipality also
20 provides, in the manner prescribed by the Department, the
21 boundaries of the business district in such a way that the
22 Department can determine by its address whether a business is
23 located in the business district. The municipality must provide
24 this boundary information to the Department on or before April
25 1 for administration and enforcement of the tax under this
26 subsection by the Department beginning on the following July 1
27 and on or before October 1 for administration and enforcement
28 of the tax under this subsection by the Department beginning on
29 the following January 1. The Department of Revenue shall not
30 administer or enforce any change made to the boundaries of a
31 business district until the municipality reports the boundary
32 change to the Department in the manner prescribed by the
33 Department. The municipality must provide this boundary change
34 information to the Department on or before April 1 for

1 administration and enforcement by the Department of the change
2 beginning on the following July 1 and on or before October 1
3 for administration and enforcement by the Department of the
4 change beginning on the following January 1. The retailers in
5 the business district shall be responsible for charging the tax
6 imposed under this subsection. If a retailer is incorrectly
7 included or excluded from the list of those required to collect
8 the tax under this subsection, both the Department of Revenue
9 and the retailer shall be held harmless if they reasonably
10 relied on information provided by the municipality.

11 A municipality that imposes the tax under this subsection
12 must submit to the Department of Revenue any other information
13 as the Department may require for the administration and
14 enforcement of the tax.

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

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

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

27 (c) If a tax has been imposed under subsection (b), a
28 Business District Service Occupation Tax shall also be imposed
29 upon all persons engaged, in the business district, in the
30 business of making sales of service, who, as an incident to
31 making those sales of service, transfer tangible personal
32 property within the business district, either in the form of
33 tangible personal property or in the form of real estate as an
34 incident to a sale of service. The tax shall be imposed at the

1 same rate as the tax imposed in subsection (b) and shall not
2 exceed 1% of the selling price of tangible personal property so
3 transferred within the business district, to be imposed only in
4 0.25% increments. The tax may not be imposed on food for human
5 consumption that is to be consumed off the premises where it is
6 sold (other than alcoholic beverages, soft drinks, and food
7 that has been prepared for immediate consumption),
8 prescription and nonprescription medicines, drugs, medical
9 appliances, modifications to a motor vehicle for the purpose of
10 rendering it usable by a disabled person, and insulin, urine
11 testing materials, syringes, and needles used by diabetics, for
12 human use.

13 The tax imposed under this subsection and all civil
14 penalties that may be assessed as an incident thereof shall be
15 collected and enforced by the Department of Revenue. The
16 certificate of registration which is issued by the Department
17 to a retailer under the Retailers' Occupation Tax Act or under
18 the Service Occupation Tax Act shall permit such registrant to
19 engage in a business which is taxable under any ordinance or
20 resolution enacted pursuant to this subsection without
21 registering separately with the Department under such
22 ordinance or resolution or under this subsection. The
23 Department of Revenue shall have full power to administer and
24 enforce this subsection; to collect all taxes and penalties due
25 under this subsection; to dispose of taxes and penalties so
26 collected in the manner hereinafter provided; and to determine
27 all rights to credit memoranda arising on account of the
28 erroneous payment of tax or penalty under this subsection. In
29 the administration of, and compliance with this subsection, the
30 Department and persons who are subject to this subsection shall
31 have the same rights, remedies, privileges, immunities, powers
32 and duties, and be subject to the same conditions,
33 restrictions, limitations, penalties, exclusions, exemptions,
34 and definitions of terms and employ the same modes of procedure

1 as are prescribed in Sections 2, 2a through 2d, 3 through 3-50
2 (in respect to all provisions therein other than the State rate
3 of tax), 4 (except that the reference to the State shall be to
4 the business district), 5, 7, 8 (except that the jurisdiction
5 to which the tax shall be a debt to the extent indicated in
6 that Section 8 shall be the municipality), 9 (except as to the
7 disposition of taxes and penalties collected, and except that
8 the returned merchandise credit for this tax may not be taken
9 against any State tax), 10, 11, 12 (except the reference
10 therein to Section 2b of the Retailers' Occupation Tax Act), 13
11 (except that any reference to the State shall mean the
12 municipality), the first paragraph of Section 15, and Sections
13 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and all
14 provisions of the Uniform Penalty and Interest Act, as fully as
15 if those provisions were set forth herein.

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

24 Whenever the Department determines that a refund should be
25 made under this subsection to a claimant instead of issuing
26 credit memorandum, the Department shall notify the State
27 Comptroller, who shall cause the order to be drawn for the
28 amount specified, and to the person named, in such notification
29 from the Department. Such refund shall be paid by the State
30 Treasurer out of the business district retailers' occupation
31 tax fund.

32 The Department shall forthwith pay over to the State
33 Treasurer, ex-officio, as trustee, all taxes, penalties, and
34 interest collected under this subsection for deposit into the

1 business district retailers' occupation tax fund. On or before
2 the 25th day of each calendar month, the Department shall
3 prepare and certify to the Comptroller the disbursement of
4 stated sums of money to named municipalities from the business
5 district retailers' occupation tax fund, the municipalities to
6 be those from which suppliers and servicemen have paid taxes or
7 penalties under this subsection to the Department during the
8 second preceding calendar month. The amount to be paid to each
9 municipality shall be the amount (not including credit
10 memoranda) collected under this subsection during the second
11 preceding calendar month by the Department, less 2% of that
12 amount, which shall be deposited into the Tax Compliance and
13 Administration Fund and shall be used by the Department,
14 subject to appropriation, to cover the costs of the Department
15 in administering and enforcing the provisions of this
16 subsection, and not including an amount equal to the amount of
17 refunds made during the second preceding calendar month by the
18 Department on behalf of such municipality. Within 10 days after
19 receipt, by the Comptroller, of the disbursement certification
20 to the municipalities, provided for in this subsection to be
21 given to the Comptroller by the Department, the Comptroller
22 shall cause the orders to be drawn for the respective amounts
23 in accordance with the directions contained in such
24 certification. The proceeds of the tax paid to municipalities
25 under this subsection shall be deposited into the Business
26 District Tax Allocation Fund by the municipality.

27 An ordinance or resolution imposing or discontinuing the
28 tax under this subsection or effecting a change in the rate
29 thereof shall either (i) be adopted and a certified copy
30 thereof filed with the Department on or before the first day of
31 April, whereupon the Department, if all other requirements of
32 this subsection are met, shall proceed to administer and
33 enforce this subsection as of the first day of July next
34 following the adoption and filing; or (ii) be adopted and a

1 certified copy thereof filed with the Department on or before
2 the first day of October, whereupon, if all other conditions of
3 this subsection are met, the Department shall proceed to
4 administer and enforce this subsection as of the first day of
5 January next following the adoption and filing.

6 The Department of Revenue shall not administer or enforce
7 an ordinance imposing, discontinuing, or changing the rate of
8 the tax under this subsection, until the municipality also
9 provides, in the manner prescribed by the Department, the
10 boundaries of the business district in such a way that the
11 Department can determine by its address whether a business is
12 located in the business district. The municipality must provide
13 this boundary information to the Department on or before April
14 1 for administration and enforcement of the tax under this
15 subsection by the Department beginning on the following July 1
16 and on or before October 1 for administration and enforcement
17 of the tax under this subsection by the Department beginning on
18 the following January 1. The Department of Revenue shall not
19 administer or enforce any change made to the boundaries of a
20 business district until the municipality reports the boundary
21 change to the Department in the manner prescribed by the
22 Department. The municipality must provide this boundary change
23 information to the Department on or before April 1 for
24 administration and enforcement by the Department of the change
25 beginning on the following July 1 and on or before October 1
26 for administration and enforcement by the Department of the
27 change beginning on the following January 1. The retailers in
28 the business district shall be responsible for charging the tax
29 imposed under this subsection. If a retailer is incorrectly
30 included or excluded from the list of those required to collect
31 the tax under this subsection, both the Department of Revenue
32 and the retailer shall be held harmless if they reasonably
33 relied on information provided by the municipality.

34 A municipality that imposes the tax under this subsection

1 must submit to the Department of Revenue any other information
2 as the Department may require for the administration and
3 enforcement of the tax.

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

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

10 (d) By ordinance, a municipality that has established a
11 business district under this Division 74.3 may impose an
12 occupation tax upon all persons engaged in the business
13 district in the business of renting, leasing, or letting rooms
14 in a hotel, as defined in the Hotel Operators' Occupation Tax
15 Act, at a rate not to exceed 1% of the gross rental receipts
16 from the renting, leasing, or letting of hotel rooms within the
17 business district, to be imposed only in 0.25% increments,
18 excluding, however, from gross rental receipts the proceeds of
19 renting, leasing, or letting to permanent residents of a hotel,
20 as defined in the Hotel Operators' Occupation Tax Act, and
21 proceeds from the tax imposed under subsection (c) of Section
22 13 of the Metropolitan Pier and Exposition Authority Act.

23 The tax imposed by the municipality under this subsection
24 and all civil penalties that may be assessed as an incident to
25 that tax shall be collected and enforced by the municipality
26 imposing the tax. The municipality shall have full power to
27 administer and enforce this subsection, to collect all taxes
28 and penalties due under this subsection, to dispose of taxes
29 and penalties so collected in the manner provided in this
30 subsection, and to determine all rights to credit memoranda
31 arising on account of the erroneous payment of tax or penalty
32 under this subsection. In the administration of and compliance
33 with this subsection, the municipality and persons who are
34 subject to this subsection shall have the same rights,

1 remedies, privileges, immunities, powers, and duties, shall be
2 subject to the same conditions, restrictions, limitations,
3 penalties, and definitions of terms, and shall employ the same
4 modes of procedure as are employed with respect to a tax
5 adopted by the municipality under Section 8-3-14 of this Code.

6 Persons subject to any tax imposed under the authority
7 granted in this subsection may reimburse themselves for their
8 tax liability for that tax by separately stating that tax as an
9 additional charge, which charge may be stated in combination,
10 in a single amount, with State taxes imposed under the Hotel
11 Operators' Occupation Tax Act, and with any other tax.

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

16 The proceeds of the tax imposed under this subsection shall
17 be deposited into the Business District Tax Allocation Fund.

18 (e) Obligations issued pursuant to subsection (14) of
19 Section 11-74.3-3 shall be retired in the manner provided in
20 the ordinance authorizing the issuance of those obligations by
21 the receipts of taxes levied as authorized in subsections (12)
22 and (13) of Section 11-74.3-3. The ordinance shall pledge all
23 of the amounts in and to be deposited in the Business District
24 Tax Allocation Fund to the payment of business district project
25 costs and obligations. Obligations issued pursuant to
26 subsection (14) of Section 11-74.3-3 may be sold at public or
27 private sale at a price determined by the corporate authorities
28 of the municipality and no referendum approval of the electors
29 shall be required as a condition to the issuance of those
30 obligations. The ordinance authorizing the obligations may
31 require that the obligations contain a recital that they are
32 issued pursuant to subsection (14) of Section 11-74.3-3 and
33 this recital shall be conclusive evidence of their validity and
34 of the regularity of their issuance. The corporate authorities

1 of the municipality may also issue its obligations to refund,
2 in whole or in part, obligations previously issued by the
3 municipality under the authority of this Code, whether at or
4 prior to maturity. All obligations issued pursuant to
5 subsection (14) of Section 11-74.3-3 shall not be regarded as
6 indebtedness of the municipality issuing the obligations for
7 the purpose of any limitation imposed by law.

8 (f) When business district costs, including, without
9 limitation, all municipal obligations financing business
10 district project costs incurred under Section 11-74.3-3 have
11 been paid, any surplus funds then remaining in the Business
12 District Tax Allocation Fund shall be distributed to the
13 municipal treasurer for deposit into the municipal general
14 corporate fund. Upon payment of all business district project
15 costs and retirement of obligations, but in no event more than
16 23 years after the date of adoption of the ordinance approving
17 the business district development or redevelopment plan, the
18 municipality shall adopt an ordinance immediately rescinding
19 the taxes imposed pursuant to subsections (12) and (13) of
20 Section 11-74.3-3.

21 (Source: P.A. 93-1053, eff. 1-1-05.)

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