

AN ACT concerning transportation.

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

Section 5. The Counties Code is amended by changing Section 5-1035.1 as follows:

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

Sec. 5-1035.1. County Motor Fuel Tax Law.

(a) The county board of the counties of DuPage, Kane, Lake, Will, and McHenry may, by an ordinance or resolution adopted by an affirmative vote of a majority of the members elected or appointed to the county board, impose a tax upon all persons engaged in the county in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law, at retail for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways. The collection of a tax under this Section based on gallonage of gasoline used for the propulsion of any aircraft is prohibited, and the collection of a tax based on gallonage of special fuel used for the propulsion of any aircraft is prohibited on and after December 1, 2019. Kane County may exempt diesel fuel from the tax imposed pursuant to this Section. The initial tax rate may not be less than 4 cents per gallon of motor fuel sold at retail within the county for the

purpose of use or consumption and not for the purpose of resale and may not exceed 8 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale. The proceeds from the tax shall be used by the county solely for the purposes of operating, constructing, and improving public highways, ~~and~~ waterways, shared-use paths for nonvehicular public travel, sidewalks, and bike paths and acquiring real property and rights-of-way for public highways, ~~and~~ waterways, shared-use paths for nonvehicular public travel, sidewalks, and bike paths within the county imposing the tax.

(a-5) By June 1, 2020, and by June 1 of each year thereafter, the Department of Revenue shall determine an annual rate increase to take effect on July 1 of that calendar year and continue through June 30 of the next calendar year. Not later than June 1 of each year, the Department of Revenue shall publish on its website the rate that will take effect on July 1 of that calendar year. The rate shall be equal to the rate in effect increased by an amount equal to the percentage increase, if any, in the Consumer Price Index for All Urban Consumers for all items, published by the United States Department of Labor for the 12 months ending in March of each year. The rate shall be rounded to the nearest one-tenth of one cent. Each new rate may not exceed the rate in effect on June 30 of the previous year plus one cent.

(b) A tax imposed pursuant to this Section, and all civil

penalties that may be assessed as an incident thereof, shall be administered, collected, and enforced by the Illinois Department of Revenue in the same manner as the tax imposed under the Retailers' Occupation Tax Act, as now or hereafter amended, insofar as may be practicable; except that in the event of a conflict with the provisions of this Section, this Section shall control. The Department of Revenue shall have full power: to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of 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.

(b-5) Persons subject to any tax imposed under the authority granted in this Section may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act, pursuant to such bracket schedules as the Department may prescribe.

(c) Whenever the Department determines that a refund shall be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State 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 State Treasurer out of the County Option Motor Fuel Tax Fund.

(d) The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder, which shall be deposited into the County Option Motor Fuel Tax Fund, a special fund in the State Treasury which is hereby created. On or before the 25th day of each calendar month, the Department shall prepare and certify to the State Comptroller the disbursement of stated sums of money to named counties for which taxpayers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each county shall be the amount (not including credit memoranda) collected hereunder from retailers within the county during the second preceding calendar month by the Department, but not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county; less 2% of the balance, which sum shall be retained by the State Treasurer to cover the costs incurred by the Department in administering and enforcing the provisions of this Section. The Department, at the time of each monthly disbursement to the counties, shall prepare and certify to the Comptroller the amount so retained by the State Treasurer, which shall be transferred into the Tax Compliance and Administration Fund.

(e) Nothing in this Section shall be construed to authorize a county to impose a tax upon the privilege of engaging in any business which under the Constitution of the

United States may not be made the subject of taxation by this State.

(f) Until January 1, 2020, an ordinance or resolution imposing a tax hereunder or effecting a change in the rate thereof shall be effective on the first day of the second calendar month next following the month in which the ordinance or resolution is adopted and a certified copy thereof is filed with the Department of Revenue, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the county as of the effective date of the ordinance or resolution.

On and after January 1, 2020, an ordinance or resolution imposing or discontinuing the tax hereunder or effecting a change in the rate thereof shall either: (i) be adopted and a certified copy thereof filed with the Department on or before the first day of April, whereupon the Department shall proceed to administer and enforce this Section as of the first day of July next following the adoption and filing; or (ii) be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following the adoption and filing.

(g) This Section shall be known and may be cited as the County Motor Fuel Tax Law.

(Source: P.A. 101-10, eff. 6-5-19; 101-32, eff. 6-28-19;

101-275, eff. 8-9-19; 101-604, eff. 12-13-19.)

Section 10. The Illinois Highway Code is amended by changing Sections 2-202, 5-701.13, and 5-801 as follows:

(605 ILCS 5/2-202) (from Ch. 121, par. 2-202)

Sec. 2-202. Highway-any public way for vehicular travel which has been laid out in pursuance of any law of this State, or of the Territory of Illinois, or which has been established by dedication, or used by the public as a highway for 15 years, or which has been or may be laid out and connect a subdivision or platted land with a public highway and which has been dedicated for the use of the owners of the land included in the subdivision or platted land where there has been an acceptance and use under such dedication by such owners, and which has not been vacated in pursuance of law. The term "highway" includes rights of way, bridges, drainage structures, signs, guard rails, protective structures, shared-use paths for nonvehicular public travel, sidewalks, bike paths, and all other structures and appurtenances necessary or convenient for vehicular traffic. A highway in a rural area may be called a "road", while a highway in a municipal area may be called a "street".

(Source: Laws 1959, p. 196.)

(605 ILCS 5/5-701.13) (from Ch. 121, par. 5-701.13)

Sec. 5-701.13. Motor fuel tax funds; counties over 500,000. The county board of any county may also use motor fuel tax funds allotted to it for placing, erecting, and maintaining signs, or surface markings, or both to indicate officially designated bicycle routes along county highways. In addition, the county board of a county with a population over 500,000 may also use motor fuel tax funds allotted to it for the construction and maintenance of bicycle routes or paths, shared-use paths for nonvehicular public travel, and sidewalks within the county, including ~~along county highways or~~ along State highways by agreement with the Department.

(Source: P.A. 88-502; 88-676, eff. 12-14-94.)

(605 ILCS 5/5-801) (from Ch. 121, par. 5-801)

Sec. 5-801. Any county, in its name, may acquire the fee simple title, or such lesser interest as may be desired, to any lands, rights or other property necessary for the construction, maintenance or operation of any county highway, township road, ~~or~~ district road, shared-use path for nonvehicular public travel, sidewalk, or bike path within the county or necessary for the locating, relocating, widening, altering, extending or straightening thereof, by purchase or gift or, if the compensation or damages cannot be agreed upon, by the exercise of the right of eminent domain under the eminent domain laws of this State. The county shall not be required to furnish bond in any eminent domain proceeding.

When, in the judgment of the county, it is more practical and economical to acquire the fee title to inaccessible remnants of tracts of land from which rights-of-way are being acquired than to pay for damages to property not taken, the county may do so by purchase but not by eminent domain proceedings.

When acquiring land for a highway on a new location, and when a parcel of land one acre or less in area contains a single family residence, which is in conformance with existing zoning ordinances, and only a part of said parcel is required for county highway purposes causing the remainder of the parcel not to conform with the existing zoning ordinances, or when the location of the right of way line of the proposed highway reduces the distance from an existing single family residence to the right of way line to ten feet or less, the acquiring agency shall, if the owner so demands, take the whole parcel by negotiation or condemnation. The part not needed for highway purposes may be rented, sold or exchanged by the acquiring agency.

(Source: Laws 1967, p. 3206.)

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