



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5825

by Rep. Robert W. Pritchard

SYNOPSIS AS INTRODUCED:

See Index

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides for filing of aviation fuel tax returns by retailers selling aviation fuel. Provides that if a municipality or business district doesn't certify that it has an airport-related purpose, the municipality's or district's local share of aviation fuel proceeds may not be distributed to the municipality or district. Amends the Illinois Municipal Code. Provides that funds received by a municipality from the imposition of taxes on the sale or use of aviation fuel may be used only for to expenditures for airport-related purposes. Defines "airport-related purposes". Provides that beginning July 1, 2018, the Department of Revenue shall certify to a municipality receiving distributions of use or occupation taxes imposed on aviation fuel the amount of tax attributed to aviation fuel sales as reported by retailers on aviation fuel tax returns to the Department of Revenue. Requires municipalities and business districts to certify whether the municipality has an airport-related purpose before imposing an occupation or use tax. Provides that beginning July 1, 2018, a municipality shall certify annually to the Department of Revenue that all of the municipality's expenditures of tax revenues generated from the sale or use of aviation fuel that were received on or after July 1, 2018 were devoted to airport-related purposes. Provides that the Department of Revenue shall provide forms and adopt rules for the filing of the certification. Limits the provisions' applicability only for so long as the revenue use requirements of specified federal statutes are binding on the State. Limits home rule powers.

LRB100 20825 AWJ 36317 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Use Tax Act is amended by adding Section 9.5
5 as follows:

6 (35 ILCS 105/9.5 new)

7 Sec. 9.5. Aviation fuel tax returns.

8 (a) As used in this Section, "aviation fuel" means a
9 product that is intended for use or offered for sale as fuel
10 for an aircraft.

11 (b) Notwithstanding any other provisions of this Act to the
12 contrary:

13 (1) Beginning on January 1, 2018, each retailer
14 required or authorized to collect the tax imposed by this
15 Act on aviation fuel sold at retail in this State during
16 the preceding calendar month shall, instead of reporting
17 and paying tax on aviation fuel as otherwise required by
18 Section 9, file and pay tax to the Department on an
19 aviation fuel tax return, on or before the twentieth day of
20 each calendar month. The requirements related to the return
21 shall be as otherwise provided in Section 9. Retailers
22 collecting tax on aviation fuel shall file all aviation
23 fuel tax returns and shall make all aviation fuel fee

1 payments by electronic means in the manner and form
2 required by the Department.

3 (2) If a municipality or District has not certified to
4 the Department of Transportation that the municipality or
5 District has an airport-related purpose under subsection
6 (d) of Section 8-11-22 of the Illinois Municipal Code, then
7 the municipality's or District's local share of aviation
8 fuel proceeds from aviation fuel tax returns under the Use
9 Tax Act, the Service Use Tax Act, the Service Occupation
10 Tax Act, and the Retailers' Occupation Tax Act may not be
11 distributed from the Local Government Tax Fund to the
12 municipality or District.

13 Section 10. The Service Use Tax Act is amended by adding
14 Section 9.5 as follows:

15 (35 ILCS 110/9.5 new)

16 Sec. 9.5. Aviation fuel tax returns.

17 (a) As used in this Section, "aviation fuel" means a
18 product that is intended for use or offered for sale as fuel
19 for an aircraft.

20 (b) Notwithstanding any other provisions of this Act to the
21 contrary:

22 (1) Beginning on January 1, 2018, each retailer
23 required or authorized to collect the tax imposed by this
24 Act on aviation fuel sold at retail in this State during

1 the preceding calendar month shall, instead of reporting
2 and paying tax on aviation fuel as otherwise required by
3 Section 9, file and pay tax to the Department on an
4 aviation fuel tax return, on or before the twentieth day of
5 each calendar month. The requirements related to the return
6 shall be as otherwise provided in Section 9. Retailers
7 collecting tax on aviation fuel shall file all aviation
8 fuel tax returns and shall make all aviation fuel fee
9 payments by electronic means in the manner and form
10 required by the Department.

11 (2) If a municipality or District has not certified to
12 the Department of Transportation that the municipality or
13 District has an airport-related purpose under subsection
14 (d) of Section 8-11-22 of the Illinois Municipal Code, then
15 the municipality's or District's local share of aviation
16 fuel proceeds from aviation fuel tax returns under the Use
17 Tax Act, the Service Use Tax Act, the Service Occupation
18 Tax Act, and the Retailers' Occupation Tax Act may not be
19 distributed from the Local Government Tax Fund to the
20 municipality or District.

21 Section 15. The Service Occupation Tax Act is amended by
22 adding Section 9.5 as follows:

23 (35 ILCS 115/9.5 new)

24 Sec. 9.5. Aviation fuel tax returns.

1 (a) As used in this Section, "aviation fuel" means a
2 product that is intended for use or offered for sale as fuel
3 for an aircraft.

4 (b) Notwithstanding any other provisions of this Act to the
5 contrary:

6 (1) Beginning on January 1, 2018, each retailer
7 required or authorized to collect the tax imposed by this
8 Act on aviation fuel sold at retail in this State during
9 the preceding calendar month shall, instead of reporting
10 and paying tax on aviation fuel as otherwise required by
11 Section 9, file and pay tax to the Department on an
12 aviation fuel tax return, on or before the twentieth day of
13 each calendar month. The requirements related to the return
14 shall be as otherwise provided in Section 9. Retailers
15 collecting tax on aviation fuel shall file all aviation
16 fuel tax returns and shall make all aviation fuel fee
17 payments by electronic means in the manner and form
18 required by the Department.

19 (2) If a municipality or District has not certified to
20 the Department of Transportation that the municipality or
21 District has an airport-related purpose under subsection
22 (d) of Section 8-11-22 of the Illinois Municipal Code, then
23 the municipality's or District's local share of aviation
24 fuel proceeds from aviation fuel tax returns under the Use
25 Tax Act, the Service Use Tax Act, the Service Occupation
26 Tax Act, and the Retailers' Occupation Tax Act may not be

1 distributed from the Local Government Tax Fund to the
2 municipality or District.

3 Section 20. The Retailers' Occupation Tax Act is amended by
4 adding Section 3.5 as follows:

5 (35 ILCS 120/3.5 new)

6 Sec. 3.5. Aviation fuel tax returns; aviation fuel local
7 share.

8 (a) As used in this Section, "aviation fuel" means a
9 product that is intended for use or offered for sale as fuel
10 for an aircraft.

11 (b) Notwithstanding any other provisions of this Act to the
12 contrary:

13 (1) Beginning on January 1, 2018, each retailer
14 required or authorized to collect the tax imposed by this
15 Act on aviation fuel sold at retail in this State during
16 the preceding calendar month shall, instead of reporting
17 and paying tax on aviation fuel as otherwise required by
18 Section 3, file and pay tax to the Department on an
19 aviation fuel tax return, on or before the twentieth day of
20 each calendar month. The requirements related to the return
21 shall be as otherwise provided in Section 3. Retailers
22 collecting tax on aviation fuel shall file all aviation
23 fuel tax returns and shall make all aviation fuel fee
24 payments by electronic means in the manner and form

1 required by the Department.

2 (2) If a municipality or District has not certified to
3 the Department of Transportation that the municipality or
4 District has an airport-related purpose under subsection
5 (d) of Section 8-11-22 of the Illinois Municipal Code, then
6 the municipality's or District's local share of aviation
7 fuel proceeds from aviation fuel tax returns under the Use
8 Tax Act, the Service Use Tax Act, the Service Occupation
9 Tax Act, and the Retailers' Occupation Tax Act may not be
10 distributed from the Local Government Tax Fund to the
11 municipality or District.

12 Section 25. The Illinois Municipal Code is amended by
13 adding Section 8-11-22 as follows:

14 (65 ILCS 5/8-11-22 new)

15 Sec. 8-11-22. Aviation fuel revenue.

16 (a) As used in this Section, "airport-related purposes"
17 means the capital or operating costs of (1) an airport, (2) a
18 local airport system, or (3) any other local facility that is
19 owned or operated by the person or entity that owns or operates
20 the airport that is directly and substantially related to the
21 air transportation of passengers or property as provided in 49
22 U.S.C. 47133. "Airport-related purposes" also means any
23 permitted airfield costs, as that term is defined in the FAA
24 Airport Compliance Manual, Order 5190.6B.

1 (b) Funds received by a municipality from the imposition of
2 taxes on the sale or use of aviation fuel may be used only for
3 expenditures for airport-related purposes.

4 (c) Beginning July 1, 2018, the Department of Revenue shall
5 certify to a municipality receiving distributions of use or
6 occupation taxes imposed on aviation fuel the amount of tax
7 attributed to aviation fuel sales as reported by retailers on
8 aviation fuel tax returns to the Department of Revenue.

9 (d) On or before April 1, 2018, and on or before each April
10 1 and October 1 thereafter, each municipality (and District in
11 the case of business district operating within a municipality)
12 must certify to the Department of Transportation, in the form
13 and manner required by the Department, whether the municipality
14 has an airport-related purpose, which would allow any
15 Retailers' Occupation Tax and Service Occupation Tax imposed by
16 the municipality to include tax on aviation fuel. On or before
17 May 1, 2018, and on or before each May 1 and November 1
18 thereafter, the Department of Transportation shall provide to
19 the Department of Revenue, a list of units of local government
20 which have certified to the Department of Transportation that
21 they have airport-related purposes, which would allow any
22 Retailers' Occupation Tax and Service Occupation Tax imposed by
23 the unit of local government to include tax on aviation fuel.
24 All disputes regarding whether or not a unit of local
25 government has an airport-related purpose shall be resolved by
26 the Department of Transportation.

1 (e) Beginning July 1, 2018, a municipality shall certify
2 annually to the Department of Revenue that all of the
3 municipality's expenditures of tax revenues generated from the
4 sale or use of aviation fuel were devoted to airport-related
5 purposes. The Department of Revenue shall provide forms and
6 adopt rules for the filing of the certification. The
7 certification applies to all funds received for aviation fuel
8 sold on or after July 1, 2018.

9 (f) This Section only applies for so long as the revenue
10 use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are
11 binding on the State.

12 (g) A home rule municipality may not expend revenue
13 received from the imposition of taxes on the sale or use of
14 aviation fuel in a manner inconsistent with this Section and
15 must provide certification to the Department of Revenue in a
16 manner consistent with this Section. This Section is a
17 limitation under subsection (i) of Section 6 of Article VII of
18 the Illinois Constitution on the concurrent exercise by home
19 rule units of powers and functions exercised by the State.

1 INDEX

2 Statutes amended in order of appearance

3 35 ILCS 105/9.5 new

4 35 ILCS 110/9.5 new

5 35 ILCS 115/9.5 new

6 35 ILCS 120/3.5 new

7 65 ILCS 5/8-11-22 new