



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB5283

Introduced 01/25/06, by Rep. Robert Rita

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/12	from Ch. 120, par. 439.12
35 ILCS 110/12	from Ch. 120, par. 439.42
35 ILCS 115/12	from Ch. 120, par. 439.112
35 ILCS 120/2-6 new	
35 ILCS 120/1p rep.	
55 ILCS 5/5-1006.5	
65 ILCS 5/11-74.4-3.1	

Amends the Retailers' Occupation Tax Act. Repeals and reinstates, with a different placement within the Act, a Section concerning an exemption for building materials for intermodal terminal facility areas. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Counties Code to make corresponding changes. Amends the Tax Increment Allocation Redevelopment Act in the Illinois Municipal Code. Authorizes municipalities to establish a project redevelopment area in an intermodal terminal facility area for the purpose of improving existing terminal facilities and related infrastructure. Makes corresponding changes. Effective immediately.

LRB094 19381 BDD 55035 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning municipalities.

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 changing Section  
5 12 as follows:

6 (35 ILCS 105/12) (from Ch. 120, par. 439.12)

7 Sec. 12. Applicability of Retailers' Occupation Tax Act and  
8 Uniform Penalty and Interest Act. All of the provisions of  
9 Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2a, 2b,  
10 2c, 3, 4 (except that the time limitation provisions shall run  
11 from the date when the tax is due rather than from the date  
12 when gross receipts are received), 5 (except that the time  
13 limitation provisions on the issuance of notices of tax  
14 liability shall run from the date when the tax is due rather  
15 than from the date when gross receipts are received and except  
16 that in the case of a failure to file a return required by this  
17 Act, no notice of tax liability shall be issued on and after  
18 each July 1 and January 1 covering tax due with that return  
19 during any month or period more than 6 years before that July 1  
20 or January 1, respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,  
21 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the Retailers' Occupation  
22 Tax Act and Section 3-7 of the Uniform Penalty and Interest  
23 Act, which are not inconsistent with this Act, shall apply, as  
24 far as practicable, to the subject matter of this Act to the  
25 same extent as if such provisions were included herein.

26 (Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

27 Section 10. The Service Use Tax Act is amended by changing  
28 Section 12 as follows:

29 (35 ILCS 110/12) (from Ch. 120, par. 439.42)

30 Sec. 12. Applicability of Retailers' Occupation Tax Act and

1 Uniform Penalty and Interest Act. All of the provisions of  
2 Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2a, 2b,  
3 2c, 3 (except as to the disposition by the Department of the  
4 money collected under this Act), 4 (except that the time  
5 limitation provisions shall run from the date when gross  
6 receipts are received), 5 (except that the time limitation  
7 provisions on the issuance of notices of tax liability shall  
8 run from the date when the tax is due rather than from the date  
9 when gross receipts are received and except that in the case of  
10 a failure to file a return required by this Act, no notice of  
11 tax liability shall be issued on and after July 1 and January 1  
12 covering tax due with that return during any month or period  
13 more than 6 years before that July 1 or January 1,  
14 respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 7, 8, 9,  
15 10, 11 and 12 of the Retailers' Occupation Tax Act which are  
16 not inconsistent with this Act, and Section 3-7 of the Uniform  
17 Penalty and Interest Act, shall apply, as far as practicable,  
18 to the subject matter of this Act to the same extent as if such  
19 provisions were included herein.

20 (Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

21 Section 15. The Service Occupation Tax Act is amended by  
22 changing Section 12 as follows:

23 (35 ILCS 115/12) (from Ch. 120, par. 439.112)

24 Sec. 12. All of the provisions of Sections 1d, 1e, 1f, 1i,  
25 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2a, 2b, 2c, 3 (except as to the  
26 disposition by the Department of the tax collected under this  
27 Act), 4 (except that the time limitation provisions shall run  
28 from the date when the tax is due rather than from the date  
29 when gross receipts are received), 5 (except that the time  
30 limitation provisions on the issuance of notices of tax  
31 liability shall run from the date when the tax is due rather  
32 than from the date when gross receipts are received), 5a, 5b,  
33 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the  
34 "Retailers' Occupation Tax Act" which are not inconsistent with

1 this Act, and Section 3-7 of the Uniform Penalty and Interest  
2 Act shall apply, as far as practicable, to the subject matter  
3 of this Act to the same extent as if such provisions were  
4 included herein.

5 (Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

6 Section 20. The Retailers' Occupation Tax Act is amended by  
7 adding Section 2-6 as follows:

8 (35 ILCS 120/2-6 new)

9 Sec. 2-6. Building materials exemption; intermodal  
10 terminal facility areas. Each retailer that makes a qualified  
11 sale of building materials to be incorporated into real estate  
12 in a redevelopment project area within an intermodal terminal  
13 facility area in accordance with Section 11-74.4-3.1 of the  
14 Illinois Municipal Code by remodeling, rehabilitating, or new  
15 construction may deduct receipts from those sales when  
16 calculating the tax imposed by this Act. For purposes of this  
17 Section, "qualified sale" means a sale of building materials  
18 that will be incorporated into real estate as part of an  
19 industrial or commercial project for which a Certificate of  
20 Eligibility for Sales Tax Exemption has been issued by the  
21 corporate authorities of the municipality in which the building  
22 project is located. To document the exemption allowed under  
23 this Section, the retailer must obtain from the purchaser a  
24 copy of the Certificate of Eligibility for Sales Tax Exemption  
25 issued by the corporate authorities of the municipality in  
26 which the real estate into which the building materials will be  
27 incorporated is located. The Certificate of Eligibility for  
28 Sales Tax Exemption must contain all of the following:

29 (1) A statement that the commercial or industrial  
30 project identified in the Certificate meets all the  
31 requirements of the jurisdiction in which the project is  
32 located.

33 (2) The location or address of the building project.

34 (3) The signature of the chief executive officer of the

1 municipality in which the building project is located, or  
2 the chief executive officer's delegate.

3 In addition, the retailer must obtain a certificate from  
4 the purchaser that contains all of the following:

5 (1) A statement that the building materials are being  
6 purchased for incorporation into real estate located in an  
7 intermodal terminal facility area included in a  
8 redevelopment project area in accordance with Section  
9 11-74.4-3.1 of the Illinois Municipal Code.

10 (2) The location or address of the real estate into  
11 which the building materials will be incorporated.

12 (3) The name of the intermodal terminal facility area  
13 in which that real estate is located.

14 (4) A description of the building materials being  
15 purchased.

16 (5) The purchaser's signature and date of purchase. The  
17 provisions of this Section are exempt from Section 2-70.

18 (35 ILCS 120/1p rep.)

19 Section 25. The Retailers' Occupation Tax Act is amended by  
20 repealing Section 1p.

21 Section 30. The Counties Code is amended by changing  
22 Section 5-1006.5 as follows:

23 (55 ILCS 5/5-1006.5)

24 Sec. 5-1006.5. Special County Retailers' Occupation Tax  
25 For Public Safety or Transportation.

26 (a) The county board of any county may impose a tax upon  
27 all persons engaged in the business of selling tangible  
28 personal property, other than personal property titled or  
29 registered with an agency of this State's government, at retail  
30 in the county on the gross receipts from the sales made in the  
31 course of business to provide revenue to be used exclusively  
32 for public safety or transportation purposes in that county, if  
33 a proposition for the tax has been submitted to the electors of

1 that county and approved by a majority of those voting on the  
2 question. If imposed, this tax shall be imposed only in  
3 one-quarter percent increments. By resolution, the county  
4 board may order the proposition to be submitted at any  
5 election. If the tax is imposed for transportation purposes for  
6 expenditures for public highways or as authorized under the  
7 Illinois Highway Code, the county board must publish notice of  
8 the existence of its long-range highway transportation plan as  
9 required or described in Section 5-301 of the Illinois Highway  
10 Code and must make the plan publicly available prior to  
11 approval of the ordinance or resolution imposing the tax. If  
12 the tax is imposed for transportation purposes for expenditures  
13 for passenger rail transportation, the county board must  
14 publish notice of the existence of its long-range passenger  
15 rail transportation plan and must make the plan publicly  
16 available prior to approval of the ordinance or resolution  
17 imposing the tax. The county clerk shall certify the question  
18 to the proper election authority, who shall submit the  
19 proposition at an election in accordance with the general  
20 election law.

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

23 "Shall (name of county) be authorized to impose a  
24 public safety tax at the rate of .... upon all persons  
25 engaged in the business of selling tangible personal  
26 property at retail in the county on gross receipts from the  
27 sales made in the course of their business?"

28 For the purposes of the paragraph, "public safety  
29 purposes" means crime prevention, detention, fire  
30 fighting, police, medical, ambulance, or other emergency  
31 services.

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

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

35 "Shall (name of county) be authorized to impose a tax  
36 at the rate of (insert rate) upon all persons engaged in

1 the business of selling tangible personal property at  
2 retail in the county on gross receipts from the sales made  
3 in the course of their business to be used for  
4 transportation purposes?

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

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

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

15 This additional tax may not be imposed on the sales of food  
16 for human consumption that is to be consumed off the premises  
17 where it is sold (other than alcoholic beverages, soft drinks,  
18 and food which has been prepared for immediate consumption) and  
19 prescription and non-prescription medicines, drugs, medical  
20 appliances and insulin, urine testing materials, syringes, and  
21 needles used by diabetics. The tax imposed by a county under  
22 this Section and all civil penalties that may be assessed as an  
23 incident of the tax shall be collected and enforced by the  
24 Illinois Department of Revenue and deposited into a special  
25 fund created for that purpose. The certificate of registration  
26 that is issued by the Department to a retailer under the  
27 Retailers' Occupation Tax Act shall permit the retailer to  
28 engage in a business that is taxable without registering  
29 separately with the Department under an ordinance or resolution  
30 under this Section. The Department has full power to administer  
31 and enforce this Section, to collect all taxes and penalties  
32 due under this Section, to dispose of taxes and penalties so  
33 collected in the manner provided in this Section, and to  
34 determine all rights to credit memoranda arising on account of  
35 the erroneous payment of a tax or penalty under this Section.  
36 In the administration of and compliance with this Section, the

1 Department and persons who are subject to this Section shall  
2 (i) have the same rights, remedies, privileges, immunities,  
3 powers, and duties, (ii) be subject to the same conditions,  
4 restrictions, limitations, penalties, and definitions of  
5 terms, and (iii) employ the same modes of procedure as are  
6 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,  
7 1n, 2 through 2-70, ~~2-5, 2-5.5, 2-10~~ (in respect to all  
8 provisions contained in those Sections other than the State  
9 rate of tax), ~~2-15 through 2-70~~, 2a, 2b, 2c, 3 (except  
10 provisions relating to transaction returns and quarter monthly  
11 payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l,  
12 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the  
13 Retailers' Occupation Tax Act and Section 3-7 of the Uniform  
14 Penalty and Interest Act as if those provisions were set forth  
15 in this Section.

16 Persons subject to any tax imposed under the authority  
17 granted in this Section may reimburse themselves for their  
18 sellers' tax liability by separately stating the tax as an  
19 additional charge, which charge may be stated in combination,  
20 in a single amount, with State tax which sellers are required  
21 to collect under the Use Tax Act, pursuant to such bracketed  
22 schedules as the Department may prescribe.

23 Whenever the Department determines that a refund should be  
24 made under this Section to a claimant instead of issuing a  
25 credit memorandum, the Department shall notify the State  
26 Comptroller, who shall cause the order to be drawn for the  
27 amount specified and to the person named in the notification  
28 from the Department. The refund shall be paid by the State  
29 Treasurer out of the County Public Safety or Transportation  
30 Retailers' Occupation Tax Fund.

31 (b) If a tax has been imposed under subsection (a), a  
32 service occupation tax shall also be imposed at the same rate  
33 upon all persons engaged, in the county, in the business of  
34 making sales of service, who, as an incident to making those  
35 sales of service, transfer tangible personal property within  
36 the county as an incident to a sale of service. This tax may



1 not be imposed on sales of food for human consumption that is  
2 to be consumed off the premises where it is sold (other than  
3 alcoholic beverages, soft drinks, and food prepared for  
4 immediate consumption) and prescription and non-prescription  
5 medicines, drugs, medical appliances and insulin, urine  
6 testing materials, syringes, and needles used by diabetics. The  
7 tax imposed under this subsection and all civil penalties that  
8 may be assessed as an incident thereof shall be collected and  
9 enforced by the Department of Revenue. The Department has full  
10 power to administer and enforce this subsection; to collect all  
11 taxes and penalties due hereunder; to dispose of taxes and  
12 penalties so collected in the manner hereinafter provided; and  
13 to determine all rights to credit memoranda arising on account  
14 of the erroneous payment of tax or penalty hereunder. In the  
15 administration of, and compliance with this subsection, the  
16 Department and persons who are subject to this paragraph shall  
17 (i) have the same rights, remedies, privileges, immunities,  
18 powers, and duties, (ii) be subject to the same conditions,  
19 restrictions, limitations, penalties, exclusions, exemptions,  
20 and definitions of terms, and (iii) employ the same modes of  
21 procedure as are prescribed in Sections 2 (except that the  
22 reference to State in the definition of supplier maintaining a  
23 place of business in this State shall mean the county), 2a, 2b,  
24 2c, 3 through 3-50 (in respect to all provisions therein other  
25 than the State rate of tax), 4 (except that the reference to  
26 the State shall be to the county), 5, 7, 8 (except that the  
27 jurisdiction to which the tax shall be a debt to the extent  
28 indicated in that Section 8 shall be the county), 9 (except as  
29 to the disposition of taxes and penalties collected), 10, 11,  
30 12 (except the reference therein to Section 2b of the  
31 Retailers' Occupation Tax Act), 13 (except that any reference  
32 to the State shall mean the county), Section 15, 16, 17, 18, 19  
33 and 20 of the Service Occupation Tax Act and Section 3-7 of the  
34 Uniform Penalty and Interest Act, as fully as if those  
35 provisions were set forth herein.

36 Persons subject to any tax imposed under the authority

1 granted in this subsection may reimburse themselves for their  
2 serviceman's tax liability by separately stating the tax as an  
3 additional charge, which charge may be stated in combination,  
4 in a single amount, with State tax that servicemen are  
5 authorized to collect under the Service Use Tax Act, in  
6 accordance with such bracket schedules as the Department may  
7 prescribe.

8 Whenever the Department determines that a refund should be  
9 made under this subsection to a claimant instead of issuing a  
10 credit memorandum, the Department shall notify the State  
11 Comptroller, who shall cause the warrant to be drawn for the  
12 amount specified, and to the person named, in the notification  
13 from the Department. The refund shall be paid by the State  
14 Treasurer out of the County Public Safety or Transportation  
15 Retailers' Occupation Fund.

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

20 (c) The Department shall immediately pay over to the State  
21 Treasurer, ex officio, as trustee, all taxes and penalties  
22 collected under this Section to be deposited into the County  
23 Public Safety or Transportation Retailers' Occupation Tax  
24 Fund, which shall be an unappropriated trust fund held outside  
25 of the State treasury. On or before the 25th day of each  
26 calendar month, the Department shall prepare and certify to the  
27 Comptroller the disbursement of stated sums of money to the  
28 counties from which retailers have paid taxes or penalties to  
29 the Department during the second preceding calendar month. The  
30 amount to be paid to each county, and deposited by the county  
31 into its special fund created for the purposes of this Section,  
32 shall be the amount (not including credit memoranda) collected  
33 under this Section during the second preceding calendar month  
34 by the Department plus an amount the Department determines is  
35 necessary to offset any amounts that were erroneously paid to a  
36 different taxing body, and not including (i) an amount equal to

1 the amount of refunds made during the second preceding calendar  
2 month by the Department on behalf of the county and (ii) any  
3 amount that the Department determines is necessary to offset  
4 any amounts that were payable to a different taxing body but  
5 were erroneously paid to the county. Within 10 days after  
6 receipt by the Comptroller of the disbursement certification to  
7 the counties provided for in this Section to be given to the  
8 Comptroller by the Department, the Comptroller shall cause the  
9 orders to be drawn for the respective amounts in accordance  
10 with directions contained in the certification.

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

26 (d) For the purpose of determining the local governmental  
27 unit whose tax is applicable, a retail sale by a producer of  
28 coal or another mineral mined in Illinois is a sale at retail  
29 at the place where the coal or other mineral mined in Illinois  
30 is extracted from the earth. This paragraph does not apply to  
31 coal or another mineral when it is delivered or shipped by the  
32 seller to the purchaser at a point outside Illinois so that the  
33 sale is exempt under the United States Constitution as a sale  
34 in interstate or foreign commerce.

35 (e) Nothing in this Section shall be construed to authorize  
36 a county to impose a tax upon the privilege of engaging in any

1 business that under the Constitution of the United States may  
2 not be made the subject of taxation by this State.

3 (e-5) If a county imposes a tax under this Section, the  
4 county board may, by ordinance, discontinue or lower the rate  
5 of the tax. If the county board lowers the tax rate or  
6 discontinues the tax, a referendum must be held in accordance  
7 with subsection (a) of this Section in order to increase the  
8 rate of the tax or to reimpose the discontinued tax.

9 (f) Beginning April 1, 1998, the results of any election  
10 authorizing a proposition to impose a tax under this Section or  
11 effecting a change in the rate of tax, or any ordinance  
12 lowering the rate or discontinuing the tax, shall be certified  
13 by the county clerk and filed with the Illinois Department of  
14 Revenue either (i) on or before the first day of April,  
15 whereupon the Department shall proceed to administer and  
16 enforce the tax as of the first day of July next following the  
17 filing; or (ii) on or before the first day of October,  
18 whereupon the Department shall proceed to administer and  
19 enforce the tax as of the first day of January next following  
20 the filing.

21 (g) When certifying the amount of a monthly disbursement to  
22 a county under this Section, the Department shall increase or  
23 decrease the amounts by an amount necessary to offset any  
24 miscalculation of previous disbursements. The offset amount  
25 shall be the amount erroneously disbursed within the previous 6  
26 months from the time a miscalculation is discovered.

27 (h) This Section may be cited as the "Special County  
28 Occupation Tax For Public Safety or Transportation Law".

29 (i) For purposes of this Section, "public safety" includes,  
30 but is not limited to, crime prevention, detention, fire  
31 fighting, police, medical, ambulance, or other emergency  
32 services. For the purposes of this Section, "transportation"  
33 includes, but is not limited to, the construction, maintenance,  
34 operation, and improvement of public highways, any other  
35 purpose for which a county may expend funds under the Illinois  
36 Highway Code, and passenger rail transportation.

1 (Source: P.A. 93-556, eff. 8-20-03.)

2 Section 35. The Illinois Municipal Code is amended by  
3 changing Section 11-74.4-3.1 as follows:

4 (65 ILCS 5/11-74.4-3.1)

5 Sec. 11-74.4-3.1. Redevelopment project area within an  
6 intermodal terminal facility area.

7 (a) Notwithstanding any other provision of law to the  
8 contrary, if a municipality designates an area within the  
9 territorial limits of the municipality as an intermodal  
10 terminal facility area, then that municipality may establish a  
11 redevelopment project area within the intermodal terminal  
12 facility area for the purpose of developing new intermodal  
13 terminal facilities, improving existing intermodal terminal  
14 facilities and related infrastructure, or rehabilitating  
15 obsolete intermodal terminal facilities, ~~or both.~~

16 If there is no existing intermodal terminal facility within  
17 the redevelopment project area, then the municipality must  
18 establish a new intermodal terminal facility within the  
19 redevelopment project area.

20 If there is an existing intermodal terminal facility within  
21 the redevelopment project area, then the municipality may  
22 improve that facility and its related infrastructure to enhance  
23 its use as an intermodal terminal facility or to include other  
24 commercial purposes within the existing facility.

25 If there is an obsolete intermodal terminal facility within  
26 the redevelopment project area, then the municipality may  
27 establish a new intermodal terminal facility, rehabilitate the  
28 existing intermodal terminal facility and related  
29 infrastructure for use as an intermodal terminal facility or  
30 for any other commercial purpose, or both.

31 (b) For purposes of this Division, an intermodal terminal  
32 facility area is deemed to be a blighted area and no proof of  
33 blight need be shown in establishing a redevelopment project  
34 area in accordance with this Section.

1 (c) As used in this Section:

2 "Intermodal terminal facility area" means an area that: (i)  
3 ~~does not include any existing intermodal terminal facility or~~  
4 ~~includes an obsolete intermodal terminal facility;~~ (ii)  
5 comprises a minimum of 150 acres and not more than 2 square  
6 miles in total area, exclusive of lakes and waterways; (ii)  
7 ~~(iii)~~ has at least one Class 1 railroad right-of-way located  
8 within it or within one quarter mile of it; and (iii) ~~(iv)~~ has  
9 no boundary limit further than 3 miles from the right-of-way.

10 "Intermodal terminal facility" means land, improvements to  
11 land, equipment, and appliances necessary for the receipt and  
12 transfer of goods between one mode of transportation and  
13 another, at least one of which must be transportation by rail.

14 (Source: P.A. 94-546, eff. 1-1-06.)

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