



Sen. David Koehler

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09500HB4545sam002

LRB095 17331 RLJ 51583 a

1 AMENDMENT TO HOUSE BILL 4545

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4545, AS AMENDED,  
3 with reference to page and line numbers of Senate Amendment No.  
4 1, on page 9, by replacing line 5 with the following:

5 "Sections 5-1006.5 and 5-1062.3 as follows:

6 (55 ILCS 5/5-1006.5)

7 Sec. 5-1006.5. Special County Retailers' Occupation Tax  
8 For Public Safety, Public Facilities, or Transportation.

9 (a) The county board of any county may impose a tax upon  
10 all persons engaged in the business of selling tangible  
11 personal property, other than personal property titled or  
12 registered with an agency of this State's government, at retail  
13 in the county on the gross receipts from the sales made in the  
14 course of business to provide revenue to be used exclusively  
15 for public safety, public facility, or transportation purposes  
16 in that county, if a proposition for the tax has been submitted

1 to the electors of that county and approved by a majority of  
2 those voting on the question. If imposed, this tax shall be  
3 imposed only in one-quarter percent increments. By resolution,  
4 the county board may order the proposition to be submitted at  
5 any election. If the tax is imposed for transportation purposes  
6 for 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 "To pay for public safety purposes, shall (name of  
24 county) be authorized to impose an increase on its share of  
25 local sales taxes by (insert rate)?"

26 As additional information on the ballot below the

1 question shall appear the following:

2 "This would mean that a consumer would pay an  
3 additional (insert amount) in sales tax for every \$100 of  
4 tangible personal property bought at retail."

5 The county board may also opt to establish a sunset  
6 provision at which time the additional sales tax would  
7 cease being collected, if not terminated earlier by a vote  
8 of the county board. If the county board votes to include a  
9 sunset provision, the proposition for public safety  
10 purposes shall be in substantially the following form:

11 "To pay for public safety purposes, shall (name of  
12 county) be authorized to impose an increase on its share of  
13 local sales taxes by (insert rate) for a period not to  
14 exceed (insert number of years)?"

15 As additional information on the ballot below the  
16 question shall appear the following:

17 "This would mean that a consumer would pay an  
18 additional (insert amount) in sales tax for every \$100 of  
19 tangible personal property bought at retail. If imposed,  
20 the additional tax would cease being collected at the end  
21 of (insert number of years), if not terminated earlier by a  
22 vote of the county board."

23 For the purposes of the paragraph, "public safety  
24 purposes" means crime prevention, detention, fire  
25 fighting, police, medical, ambulance, or other emergency  
26 services.

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

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

4           "To pay for improvements to roads and other  
5 transportation purposes, shall (name of county) be  
6 authorized to impose an increase on its share of local  
7 sales taxes by (insert rate)?"

8           As additional information on the ballot below the  
9 question shall appear the following:

10           "This would mean that a consumer would pay an  
11 additional (insert amount) in sales tax for every \$100 of  
12 tangible personal property bought at retail."

13           The county board may also opt to establish a sunset  
14 provision at which time the additional sales tax would  
15 cease being collected, if not terminated earlier by a vote  
16 of the county board. If the county board votes to include a  
17 sunset provision, the proposition for transportation  
18 purposes shall be in substantially the following form:

19           "To pay for road improvements and other transportation  
20 purposes, shall (name of county) be authorized to impose an  
21 increase on its share of local sales taxes by (insert rate)  
22 for a period not to exceed (insert number of years)?"

23           As additional information on the ballot below the  
24 question shall appear the following:

25           "This would mean that a consumer would pay an  
26 additional (insert amount) in sales tax for every \$100 of

1           tangible personal property bought at retail. If imposed,  
2           the additional tax would cease being collected at the end  
3           of (insert number of years), if not terminated earlier by a  
4           vote of the county board."

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           (3) The proposition for public facility purposes shall  
12           be in substantially the following form:

13           "To pay for public facility purposes, shall (name of  
14           county) be authorized to impose an increase on its share of  
15           local sales taxes by (insert rate)?"

16           As additional information on the ballot below the  
17           question shall appear the following:

18           "This would mean that a consumer would pay an  
19           additional (insert amount) in sales tax for every \$100 of  
20           tangible personal property bought at retail."

21           The county board may also opt to establish a sunset  
22           provision at which time the additional sales tax would  
23           cease being collected, if not terminated earlier by a vote  
24           of the county board. If the county board votes to include a  
25           sunset provision, the proposition for public facility  
26           purposes shall be in substantially the following form:

1           "To pay for public facility purposes, shall (name of  
2           county) be authorized to impose an increase on its share of  
3           local sales taxes by (insert rate) for a period not to  
4           exceed (insert number of years)?"

5           As additional information on the ballot below the  
6           question shall appear the following:

7           "This would mean that a consumer would pay an  
8           additional (insert amount) in sales tax for every \$100 of  
9           tangible personal property bought at retail. If imposed,  
10           the additional tax would cease being collected at the end  
11           of (insert number of years), if not terminated earlier by a  
12           vote of the county board."

13           For purposes of this Section, "public facilities  
14           purposes" means the acquisition, development,  
15           construction, reconstruction, rehabilitation, improvement,  
16           financing, architectural planning, and installation of  
17           capital facilities consisting of buildings, structures,  
18           and durable equipment and for the acquisition and  
19           improvement of real property and interest in real property  
20           required, or expected to be required, in connection with  
21           the public facilities, for use by the county for the  
22           furnishing of governmental services to its citizens,  
23           including but not limited to museums and nursing homes.

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

25           If a majority of the electors voting on the proposition  
26           vote in favor of it, the county may impose the tax. A county

1 may not submit more than one proposition authorized by this  
2 Section to the electors at any one time.

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

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

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

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



1 Retailers' Occupation Tax Fund.

2 (b) If a tax has been imposed under subsection (a), a  
3 service occupation tax shall also be imposed at the same rate  
4 upon all persons engaged, in the county, in the business of  
5 making sales of service, who, as an incident to making those  
6 sales of service, transfer tangible personal property within  
7 the county as an incident to a sale of service. This tax may  
8 not be imposed on sales of food for human consumption that is  
9 to be consumed off the premises where it is sold (other than  
10 alcoholic beverages, soft drinks, and food prepared for  
11 immediate consumption) and prescription and non-prescription  
12 medicines, drugs, medical appliances and insulin, urine  
13 testing materials, syringes, and needles used by diabetics. The  
14 tax imposed under this subsection and all civil penalties that  
15 may be assessed as an incident thereof shall be collected and  
16 enforced by the Department of Revenue. The Department has full  
17 power to administer and enforce this subsection; to collect all  
18 taxes and penalties due hereunder; to dispose of taxes and  
19 penalties so collected in the manner hereinafter provided; and  
20 to determine all rights to credit memoranda arising on account  
21 of the erroneous payment of tax or penalty hereunder. In the  
22 administration of, and compliance with this subsection, the  
23 Department and persons who are subject to this paragraph shall  
24 (i) have the same rights, remedies, privileges, immunities,  
25 powers, and duties, (ii) be subject to the same conditions,  
26 restrictions, limitations, penalties, exclusions, exemptions,

1 and definitions of terms, and (iii) employ the same modes of  
2 procedure as are prescribed in Sections 2 (except that the  
3 reference to State in the definition of supplier maintaining a  
4 place of business in this State shall mean the county), 2a, 2b,  
5 2c, 3 through 3-50 (in respect to all provisions therein other  
6 than the State rate of tax), 4 (except that the reference to  
7 the State shall be to the county), 5, 7, 8 (except that the  
8 jurisdiction to which the tax shall be a debt to the extent  
9 indicated in that Section 8 shall be the county), 9 (except as  
10 to the disposition of taxes and penalties collected), 10, 11,  
11 12 (except the reference therein to Section 2b of the  
12 Retailers' Occupation Tax Act), 13 (except that any reference  
13 to the State shall mean the county), Section 15, 16, 17, 18, 19  
14 and 20 of the Service Occupation Tax Act and Section 3-7 of the  
15 Uniform Penalty and Interest Act, as fully as if those  
16 provisions were set forth herein.

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

25 Whenever the Department determines that a refund should be  
26 made under this subsection to a claimant instead of issuing a

1 credit memorandum, the Department shall notify the State  
2 Comptroller, who shall cause the warrant to be drawn for the  
3 amount specified, and to the person named, in the notification  
4 from the Department. The refund shall be paid by the State  
5 Treasurer out of the County Public Safety or Transportation  
6 Retailers' Occupation Fund.

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

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

1 different taxing body, and not including (i) an amount equal to  
2 the amount of refunds made during the second preceding calendar  
3 month by the Department on behalf of the county and (ii) any  
4 amount that the Department determines is necessary to offset  
5 any amounts that were payable to a different taxing body but  
6 were erroneously paid to the county. Within 10 days after  
7 receipt by the Comptroller of the disbursement certification to  
8 the counties provided for in this Section to be given to the  
9 Comptroller by the Department, the Comptroller shall cause the  
10 orders to be drawn for the respective amounts in accordance  
11 with directions contained in the certification.

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

1           (d) For the purpose of determining the local governmental  
2 unit whose tax is applicable, a retail sale by a producer of  
3 coal or another mineral mined in Illinois is a sale at retail  
4 at the place where the coal or other mineral mined in Illinois  
5 is extracted from the earth. This paragraph does not apply to  
6 coal or another mineral when it is delivered or shipped by the  
7 seller to the purchaser at a point outside Illinois so that the  
8 sale is exempt under the United States Constitution as a sale  
9 in interstate or foreign commerce.

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

14           (e-5) If a county imposes a tax under this Section, the  
15 county board may, by ordinance, discontinue or lower the rate  
16 of the tax. If the county board lowers the tax rate or  
17 discontinues the tax, a referendum must be held in accordance  
18 with subsection (a) of this Section in order to increase the  
19 rate of the tax or to reimpose the discontinued tax.

20           (f) Beginning April 1, 1998, the results of any election  
21 authorizing a proposition to impose a tax under this Section or  
22 effecting a change in the rate of tax, or any ordinance  
23 lowering the rate or discontinuing the tax, shall be certified  
24 by the county clerk and filed with the Illinois Department of  
25 Revenue either (i) on or before the first day of April,  
26 whereupon the Department shall proceed to administer and

1 enforce the tax as of the first day of July next following the  
2 filing; or (ii) on or before the first day of October,  
3 whereupon the Department shall proceed to administer and  
4 enforce the tax as of the first day of January next following  
5 the filing.

6 (g) When certifying the amount of a monthly disbursement to  
7 a county under this Section, the Department shall increase or  
8 decrease the amounts by an amount necessary to offset any  
9 miscalculation of previous disbursements. The offset amount  
10 shall be the amount erroneously disbursed within the previous 6  
11 months from the time a miscalculation is discovered.

12 (h) This Section may be cited as the "Special County  
13 Occupation Tax For Public Safety, Public Facilities, or  
14 Transportation Law".

15 (i) For purposes of this Section, "public safety" includes,  
16 but is not limited to, crime prevention, detention, fire  
17 fighting, police, medical, ambulance, or other emergency  
18 services. For the purposes of this Section, "transportation"  
19 includes, but is not limited to, the construction, maintenance,  
20 operation, and improvement of public highways, any other  
21 purpose for which a county may expend funds under the Illinois  
22 Highway Code, and passenger rail transportation. For the  
23 purposes of this Section, "public facilities purposes"  
24 includes, but is not limited to, the acquisition, development,  
25 construction, reconstruction, rehabilitation, improvement,  
26 financing, architectural planning, and installation of capital

1 facilities consisting of buildings, structures, and durable  
2 equipment and for the acquisition and improvement of real  
3 property and interest in real property required, or expected to  
4 be required, in connection with the public facilities, for use  
5 by the county for the furnishing of governmental services to  
6 its citizens, including but not limited to museums and nursing  
7 homes.

8 (Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08.)".