



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5050

by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

70 ILCS 3615/4.03

from Ch. 111 2/3, par. 704.03

Amends the Regional Transportation Authority Act. Provides that the tax rate for a retailers' occupation tax and other sales taxes imposed by the Regional Transportation Authority shall be 0.50% in McHenry County (now, 0.75%). Provides that all of the proceeds from the Regional Transportation Authority sales taxes collected in McHenry County shall be disbursed to the Regional Transportation Authority. Effective immediately.

LRB095 19023 HLH 45198 b

FISCAL 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 Regional Transportation Authority Act is
5 amended by changing Section 4.03 as follows:

6 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)
7 Sec. 4.03. Taxes.

8 (a) In order to carry out any of the powers or purposes of
9 the Authority, the Board may by ordinance adopted with the
10 concurrence of 12 of the then Directors, impose throughout the
11 metropolitan region any or all of the taxes provided in this
12 Section. Except as otherwise provided in this Act, taxes
13 imposed under this Section and civil penalties imposed incident
14 thereto shall be collected and enforced by the State Department
15 of Revenue. The Department shall have the power to administer
16 and enforce the taxes and to determine all rights for refunds
17 for erroneous payments of the taxes. Nothing in this amendatory
18 Act of the 95th General Assembly is intended to invalidate any
19 taxes currently imposed by the Authority. The increased vote
20 requirements to impose a tax shall only apply to actions taken
21 after the effective date of this amendatory Act of the 95th
22 General Assembly.

23 (b) The Board may impose a public transportation tax upon

1 all persons engaged in the metropolitan region in the business
2 of selling at retail motor fuel for operation of motor vehicles
3 upon public highways. The tax shall be at a rate not to exceed
4 5% of the gross receipts from the sales of motor fuel in the
5 course of the business. As used in this Act, the term "motor
6 fuel" shall have the same meaning as in the Motor Fuel Tax Law.
7 The Board may provide for details of the tax. The provisions of
8 any tax shall conform, as closely as may be practicable, to the
9 provisions of the Municipal Retailers Occupation Tax Act,
10 including without limitation, conformity to penalties with
11 respect to the tax imposed and as to the powers of the State
12 Department of Revenue to promulgate and enforce rules and
13 regulations relating to the administration and enforcement of
14 the provisions of the tax imposed, except that reference in the
15 Act to any municipality shall refer to the Authority and the
16 tax shall be imposed only with regard to receipts from sales of
17 motor fuel in the metropolitan region, at rates as limited by
18 this Section.

19 (c) In connection with the tax imposed under paragraph (b)
20 of this Section the Board may impose a tax upon the privilege
21 of using in the metropolitan region motor fuel for the
22 operation of a motor vehicle upon public highways, the tax to
23 be at a rate not in excess of the rate of tax imposed under
24 paragraph (b) of this Section. The Board may provide for
25 details of the tax.

26 (d) The Board may impose a motor vehicle parking tax upon

1 the privilege of parking motor vehicles at off-street parking
2 facilities in the metropolitan region at which a fee is
3 charged, and may provide for reasonable classifications in and
4 exemptions to the tax, for administration and enforcement
5 thereof and for civil penalties and refunds thereunder and may
6 provide criminal penalties thereunder, the maximum penalties
7 not to exceed the maximum criminal penalties provided in the
8 Retailers' Occupation Tax Act. The Authority may collect and
9 enforce the tax itself or by contract with any unit of local
10 government. The State Department of Revenue shall have no
11 responsibility for the collection and enforcement unless the
12 Department agrees with the Authority to undertake the
13 collection and enforcement. As used in this paragraph, the term
14 "parking facility" means a parking area or structure having
15 parking spaces for more than 2 vehicles at which motor vehicles
16 are permitted to park in return for an hourly, daily, or other
17 periodic fee, whether publicly or privately owned, but does not
18 include parking spaces on a public street, the use of which is
19 regulated by parking meters.

20 (e) The Board may impose a Regional Transportation
21 Authority Retailers' Occupation Tax upon all persons engaged in
22 the business of selling tangible personal property at retail in
23 the metropolitan region. In Cook County the tax rate shall be
24 1.25% of the gross receipts from sales of food for human
25 consumption that is to be consumed off the premises where it is
26 sold (other than alcoholic beverages, soft drinks and food that

1 has been prepared for immediate consumption) and prescription
2 and nonprescription medicines, drugs, medical appliances and
3 insulin, urine testing materials, syringes and needles used by
4 diabetics, and 1% of the gross receipts from other taxable
5 sales made in the course of that business. In McHenry County,
6 the tax rate shall be 0.50% of the gross receipts from all
7 taxable sales made in the course of that business. In DuPage,
8 Kane, Lake, ~~McHenry,~~ and Will Counties, the tax rate shall be
9 0.75% of the gross receipts from all taxable sales made in the
10 course of that business. The tax imposed under this Section and
11 all civil penalties that may be assessed as an incident thereof
12 shall be collected and enforced by the State Department of
13 Revenue. The Department shall have full power to administer and
14 enforce this Section; to collect all taxes and penalties so
15 collected in the manner hereinafter provided; and to determine
16 all rights to credit memoranda arising on account of the
17 erroneous payment of tax or penalty hereunder. In the
18 administration of, and compliance with this Section, the
19 Department and persons who are subject to this Section shall
20 have the same rights, remedies, privileges, immunities, powers
21 and duties, and be subject to the same conditions,
22 restrictions, limitations, penalties, exclusions, exemptions
23 and definitions of terms, and employ the same modes of
24 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
25 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
26 therein other than the State rate of tax), 2c, 3 (except as to

1 the disposition of taxes and penalties collected), 4, 5, 5a,
2 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
3 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
4 Section 3-7 of the Uniform Penalty and Interest Act, as fully
5 as if those provisions were set forth herein.

6 Persons subject to any tax imposed under the authority
7 granted in this Section may reimburse themselves for their
8 seller's tax liability hereunder by separately stating the tax
9 as an additional charge, which charge may be stated in
10 combination in a single amount with State taxes that sellers
11 are required to collect under the Use Tax Act, under any
12 bracket schedules the Department may prescribe.

13 Whenever the Department determines that a refund should be
14 made under this Section to a claimant instead of issuing a
15 credit memorandum, the Department shall notify the State
16 Comptroller, who shall cause the warrant to be drawn for the
17 amount specified, and to the person named, in the notification
18 from the Department. The refund shall be paid by the State
19 Treasurer out of the Regional Transportation Authority tax fund
20 established under paragraph (n) of this Section.

21 If a tax is imposed under this subsection (e), a tax shall
22 also be imposed under subsections (f) and (g) of this Section.

23 For the purpose of determining whether a tax authorized
24 under this Section is applicable, a retail sale by a producer
25 of coal or other mineral mined in Illinois, is a sale at retail
26 at the place where the coal or other mineral mined in Illinois

1 is extracted from the earth. This paragraph does not apply to
2 coal or other mineral when it is delivered or shipped by the
3 seller to the purchaser at a point outside Illinois so that the
4 sale is exempt under the Federal Constitution as a sale in
5 interstate or foreign commerce.

6 No tax shall be imposed or collected under this subsection
7 on the sale of a motor vehicle in this State to a resident of
8 another state if that motor vehicle will not be titled in this
9 State.

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

15 (f) If a tax has been imposed under paragraph (e), a
16 Regional Transportation Authority Service Occupation Tax shall
17 also be imposed upon all persons engaged, in the metropolitan
18 region in the business of making sales of service, who as an
19 incident to making the sales of service, transfer tangible
20 personal property within the metropolitan region, either in the
21 form of tangible personal property or in the form of real
22 estate as an incident to a sale of service. In Cook County, the
23 tax rate shall be: (1) 1.25% of the serviceman's cost price of
24 food prepared for immediate consumption and transferred
25 incident to a sale of service subject to the service occupation
26 tax by an entity licensed under the Hospital Licensing Act or

1 the Nursing Home Care Act that is located in the metropolitan
2 region; (2) 1.25% of the selling price of food for human
3 consumption that is to be consumed off the premises where it is
4 sold (other than alcoholic beverages, soft drinks and food that
5 has been prepared for immediate consumption) and prescription
6 and nonprescription medicines, drugs, medical appliances and
7 insulin, urine testing materials, syringes and needles used by
8 diabetics; and (3) 1% of the selling price from other taxable
9 sales of tangible personal property transferred. In McHenry
10 County, the tax rate shall be 0.50% of the selling price of all
11 tangible personal property transferred. In DuPage, Kane, Lake,
12 ~~McHenry~~ and Will Counties the rate shall be 0.75% of the
13 selling price of all tangible personal property transferred.

14 The tax imposed under this paragraph and all civil
15 penalties that may be assessed as an incident thereof shall be
16 collected and enforced by the State Department of Revenue. The
17 Department shall have full power to administer and enforce this
18 paragraph; to collect all taxes and penalties due hereunder; to
19 dispose of taxes and penalties collected in the manner
20 hereinafter provided; and to determine all rights to credit
21 memoranda arising on account of the erroneous payment of tax or
22 penalty hereunder. In the administration of and compliance with
23 this paragraph, the Department and persons who are subject to
24 this paragraph shall have the same rights, remedies,
25 privileges, immunities, powers and duties, and be subject to
26 the same conditions, restrictions, limitations, penalties,

1 exclusions, exemptions and definitions of terms, and employ the
2 same modes of procedure, as are prescribed in Sections 1a-1, 2,
3 2a, 3 through 3-50 (in respect to all provisions therein other
4 than the State rate of tax), 4 (except that the reference to
5 the State shall be to the Authority), 5, 7, 8 (except that the
6 jurisdiction to which the tax shall be a debt to the extent
7 indicated in that Section 8 shall be the Authority), 9 (except
8 as to the disposition of taxes and penalties collected, and
9 except that the returned merchandise credit for this tax may
10 not be taken against any State tax), 10, 11, 12 (except the
11 reference therein to Section 2b of the Retailers' Occupation
12 Tax Act), 13 (except that any reference to the State shall mean
13 the Authority), the first paragraph of Section 15, 16, 17, 18,
14 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
15 the 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 paragraph may reimburse themselves for their
19 serviceman's tax liability hereunder by separately stating the
20 tax as an additional charge, that charge may be stated in
21 combination in a single amount with State tax that servicemen
22 are authorized to collect under the Service Use Tax Act, under
23 any bracket schedules the Department may prescribe.

24 Whenever the Department determines that a refund should be
25 made under this paragraph to a claimant instead of issuing a
26 credit memorandum, the Department shall notify the State

1 Comptroller, who shall cause the warrant to be drawn for the
2 amount specified, and to the person named in the notification
3 from the Department. The refund shall be paid by the State
4 Treasurer out of the Regional Transportation Authority tax fund
5 established under paragraph (n) of this Section.

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

10 (g) If a tax has been imposed under paragraph (e), a tax
11 shall also be imposed upon the privilege of using in the
12 metropolitan region, any item of tangible personal property
13 that is purchased outside the metropolitan region at retail
14 from a retailer, and that is titled or registered with an
15 agency of this State's government. In Cook County the tax rate
16 shall be 1% of the selling price of the tangible personal
17 property, as "selling price" is defined in the Use Tax Act. In
18 McHenry County, the tax rate shall be 0.50% of the selling
19 price of the tangible personal property, as "selling price" is
20 defined in the Use Tax Act. In DuPage, Kane, Lake, ~~McHenry~~ and
21 Will counties the tax rate shall be 0.75% of the selling price
22 of the tangible personal property, as "selling price" is
23 defined in the Use Tax Act. The tax shall be collected from
24 persons whose Illinois address for titling or registration
25 purposes is given as being in the metropolitan region. The tax
26 shall be collected by the Department of Revenue for the

1 Regional Transportation Authority. The tax must be paid to the
2 State, or an exemption determination must be obtained from the
3 Department of Revenue, before the title or certificate of
4 registration for the property may be issued. The tax or proof
5 of exemption may be transmitted to the Department by way of the
6 State agency with which, or the State officer with whom, the
7 tangible personal property must be titled or registered if the
8 Department and the State agency or State officer determine that
9 this procedure will expedite the processing of applications for
10 title or registration.

11 The Department shall have full power to administer and
12 enforce this paragraph; to collect all taxes, penalties and
13 interest due hereunder; to dispose of taxes, penalties and
14 interest collected in the manner hereinafter provided; and to
15 determine all rights to credit memoranda or refunds arising on
16 account of the erroneous payment of tax, penalty or interest
17 hereunder. In the administration of and compliance with this
18 paragraph, the Department and persons who are subject to this
19 paragraph shall have the same rights, remedies, privileges,
20 immunities, powers and duties, and be subject to the same
21 conditions, restrictions, limitations, penalties, exclusions,
22 exemptions and definitions of terms and employ the same modes
23 of procedure, as are prescribed in Sections 2 (except the
24 definition of "retailer maintaining a place of business in this
25 State"), 3 through 3-80 (except provisions pertaining to the
26 State rate of tax, and except provisions concerning collection

1 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
2 19 (except the portions pertaining to claims by retailers and
3 except the last paragraph concerning refunds), 20, 21 and 22 of
4 the Use Tax Act, and are not inconsistent with this paragraph,
5 as fully as if those provisions were set forth herein.

6 Whenever the Department determines that a refund should be
7 made under this paragraph to a claimant instead of issuing a
8 credit memorandum, the Department shall notify the State
9 Comptroller, who shall cause the order to be drawn for the
10 amount specified, and to the person named in the notification
11 from the Department. The refund shall be paid by the State
12 Treasurer out of the Regional Transportation Authority tax fund
13 established under paragraph (n) of this Section.

14 (h) The Authority may impose a replacement vehicle tax of
15 \$50 on any passenger car as defined in Section 1-157 of the
16 Illinois Vehicle Code purchased within the metropolitan region
17 by or on behalf of an insurance company to replace a passenger
18 car of an insured person in settlement of a total loss claim.
19 The tax imposed may not become effective before the first day
20 of the month following the passage of the ordinance imposing
21 the tax and receipt of a certified copy of the ordinance by the
22 Department of Revenue. The Department of Revenue shall collect
23 the tax for the Authority in accordance with Sections 3-2002
24 and 3-2003 of the Illinois Vehicle Code.

25 The Department shall immediately pay over to the State
26 Treasurer, ex officio, as trustee, all taxes collected

1 hereunder. On or before the 25th day of each calendar month,
2 the Department shall prepare and certify to the Comptroller the
3 disbursement of stated sums of money to the Authority. The
4 amount to be paid to the Authority shall be the amount
5 collected hereunder during the second preceding calendar month
6 by the Department, less any amount determined by the Department
7 to be necessary for the payment of refunds. Within 10 days
8 after receipt by the Comptroller of the disbursement
9 certification to the Authority provided for in this Section to
10 be given to the Comptroller by the Department, the Comptroller
11 shall cause the orders to be drawn for that amount in
12 accordance with the directions contained in the certification.

13 (i) The Board may not impose any other taxes except as it
14 may from time to time be authorized by law to impose.

15 (j) A certificate of registration issued by the State
16 Department of Revenue to a retailer under the Retailers'
17 Occupation Tax Act or under the Service Occupation Tax Act
18 shall permit the registrant to engage in a business that is
19 taxed under the tax imposed under paragraphs (b), (e), (f) or
20 (g) of this Section and no additional registration shall be
21 required under the tax. A certificate issued under the Use Tax
22 Act or the Service Use Tax Act shall be applicable with regard
23 to any tax imposed under paragraph (c) of this Section.

24 (k) The provisions of any tax imposed under paragraph (c)
25 of this Section shall conform as closely as may be practicable
26 to the provisions of the Use Tax Act, including without

1 limitation conformity as to penalties with respect to the tax
2 imposed and as to the powers of the State Department of Revenue
3 to promulgate and enforce rules and regulations relating to the
4 administration and enforcement of the provisions of the tax
5 imposed. The taxes shall be imposed only on use within the
6 metropolitan region and at rates as provided in the paragraph.

7 (l) The Board in imposing any tax as provided in paragraphs
8 (b) and (c) of this Section, shall, after seeking the advice of
9 the State Department of Revenue, provide means for retailers,
10 users or purchasers of motor fuel for purposes other than those
11 with regard to which the taxes may be imposed as provided in
12 those paragraphs to receive refunds of taxes improperly paid,
13 which provisions may be at variance with the refund provisions
14 as applicable under the Municipal Retailers Occupation Tax Act.
15 The State Department of Revenue may provide for certificates of
16 registration for users or purchasers of motor fuel for purposes
17 other than those with regard to which taxes may be imposed as
18 provided in paragraphs (b) and (c) of this Section to
19 facilitate the reporting and nontaxability of the exempt sales
20 or uses.

21 (m) Any ordinance imposing or discontinuing any tax under
22 this Section shall be adopted and a certified copy thereof
23 filed with the Department on or before June 1, whereupon the
24 Department of Revenue shall proceed to administer and enforce
25 this Section on behalf of the Regional Transportation Authority
26 as of September 1 next following such adoption and filing.

1 Beginning January 1, 1992, an ordinance or resolution imposing
2 or discontinuing the tax hereunder shall be adopted and a
3 certified copy thereof filed with the Department on or before
4 the first day of July, whereupon the Department shall proceed
5 to administer and enforce this Section as of the first day of
6 October next following such adoption and filing. Beginning
7 January 1, 1993, an ordinance or resolution imposing,
8 increasing, decreasing, or discontinuing the tax hereunder
9 shall be adopted and a certified copy thereof filed with the
10 Department, whereupon the Department shall proceed to
11 administer and enforce this Section as of the first day of the
12 first month to occur not less than 60 days following such
13 adoption and filing. Any ordinance or resolution of the
14 Authority imposing a tax under this Section and in effect on
15 August 1, 2007 shall remain in full force and effect and shall
16 be administered by the Department of Revenue under the terms
17 and conditions and rates of tax established by such ordinance
18 or resolution until the Department begins administering and
19 enforcing an increased tax under this Section as authorized by
20 this amendatory Act of the 95th General Assembly. The tax rates
21 authorized by this amendatory Act of the 95th General Assembly
22 are effective only if imposed by ordinance of the Authority.

23 (n) The State Department of Revenue shall, upon collecting
24 any taxes as provided in this Section, pay the taxes over to
25 the State Treasurer as trustee for the Authority. The taxes
26 shall be held in a trust fund outside the State Treasury. On or

1 before the 25th day of each calendar month, the State
2 Department of Revenue shall prepare and certify to the
3 Comptroller of the State of Illinois and to the Authority (i)
4 the amount of taxes collected in each County other than Cook
5 County and McHenry County in the metropolitan region, (ii) the
6 amount of taxes collected within the City of Chicago, ~~and~~ (iii)
7 the amount collected in that portion of Cook County outside of
8 Chicago, and (iv) the amount of taxes collected in McHenry
9 County, each amount less the amount necessary for the payment
10 of refunds to taxpayers located in those areas described in
11 items (i), (ii), ~~and~~ (iii), and (iv). Within 10 days after
12 receipt by the Comptroller of the certification of the amounts,
13 the Comptroller shall cause an order to be drawn for the
14 payment of two-thirds of the amounts certified in item (i) of
15 this subsection to the Authority and one-third of the amounts
16 certified in item (i) of this subsection to the respective
17 counties other than Cook County and McHenry County and the
18 amount certified in items (ii), ~~and~~ (iii) and (iv) of this
19 subsection to the Authority.

20 In addition to the disbursement required by the preceding
21 paragraph, an allocation shall be made in July 1991 and each
22 year thereafter to the Regional Transportation Authority. The
23 allocation shall be made in an amount equal to the average
24 monthly distribution during the preceding calendar year
25 (excluding the 2 months of lowest receipts) and the allocation
26 shall include the amount of average monthly distribution from

1 the Regional Transportation Authority Occupation and Use Tax
2 Replacement Fund. The distribution made in July 1992 and each
3 year thereafter under this paragraph and the preceding
4 paragraph shall be reduced by the amount allocated and
5 disbursed under this paragraph in the preceding calendar year.
6 The Department of Revenue shall prepare and certify to the
7 Comptroller for disbursement the allocations made in
8 accordance with this paragraph.

9 (o) Failure to adopt a budget ordinance or otherwise to
10 comply with Section 4.01 of this Act or to adopt a Five-year
11 Capital Program or otherwise to comply with paragraph (b) of
12 Section 2.01 of this Act shall not affect the validity of any
13 tax imposed by the Authority otherwise in conformity with law.

14 (p) At no time shall a public transportation tax or motor
15 vehicle parking tax authorized under paragraphs (b), (c) and
16 (d) of this Section be in effect at the same time as any
17 retailers' occupation, use or service occupation tax
18 authorized under paragraphs (e), (f) and (g) of this Section is
19 in effect.

20 Any taxes imposed under the authority provided in
21 paragraphs (b), (c) and (d) shall remain in effect only until
22 the time as any tax authorized by paragraphs (e), (f) or (g) of
23 this Section are imposed and becomes effective. Once any tax
24 authorized by paragraphs (e), (f) or (g) is imposed the Board
25 may not reimpose taxes as authorized in paragraphs (b), (c) and
26 (d) of the Section unless any tax authorized by paragraphs (e),

1 (f) or (g) of this Section becomes ineffective by means other
2 than an ordinance of the Board.

3 (q) Any existing rights, remedies and obligations
4 (including enforcement by the Regional Transportation
5 Authority) arising under any tax imposed under paragraphs (b),
6 (c) or (d) of this Section shall not be affected by the
7 imposition of a tax under paragraphs (e), (f) or (g) of this
8 Section.

9 (Source: P.A. 95-708, eff. 1-18-08.)

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