

HB5280



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5280

by Rep. Patricia Reid Lindner

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1035.1

from Ch. 34, par. 5-1035.1

Amends the Counties Code. Authorizes any county to impose a county motor fuel tax. Requires referendum approval before the tax may be imposed. Sets forth requirements for the referendum and for the imposition and collection of the tax. Makes technical changes.

LRB095 16003 BDD 43925 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 Counties Code is amended by changing Section
5 5-1035.1 as follows:

6 (55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

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

8 (a) The county board of the counties of DuPage, Kane and
9 McHenry may, by an ordinance or resolution adopted by an
10 affirmative vote of a majority of the members elected or
11 appointed to the county board, impose a tax upon all persons
12 engaged in the county in the business of selling motor fuel, as
13 now or hereafter defined in the Motor Fuel Tax Law, at retail
14 for the operation of motor vehicles upon public highways or for
15 the operation of recreational watercraft upon waterways. Kane
16 County may exempt diesel fuel from the tax imposed pursuant to
17 this Section. The tax may be imposed, in half-cent increments,
18 at a rate not exceeding 4 cents per gallon of motor fuel sold
19 at retail within the county for the purpose of use or
20 consumption and not for the purpose of resale.

21 (b) The county board of any county may impose a tax upon
22 all persons engaged in the county in the business of selling
23 motor fuel, as defined in subsection (a), at retail for the

1 operation of motor vehicles upon public highways or for the
2 operation of recreational watercraft upon waterways. A county
3 imposing the tax under this subsection (b) may exempt diesel
4 fuel from the tax. The tax may be imposed, in half-cent
5 increments, at a rate not exceeding 4 cents per gallon of motor
6 fuel sold at retail within the county for the purpose of use or
7 consumption and not for the purpose of resale.

8 The tax under this subsection (b) may not be imposed until
9 the question of imposing the tax has been submitted to the
10 electors of the county at a regular election and approved by a
11 majority of the electors voting on the question. The county
12 board must certify the question to the proper election
13 authority, which must submit the question at an election in
14 accordance with the Election Code.

15 The election authority must submit the question in
16 substantially the following form:

17 Shall the county board of (name of county) be
18 authorized to impose a tax upon all persons engaged in the
19 county in the business of selling motor fuel at retail for
20 the operation of motor vehicles upon public highways or for
21 the operation of recreational watercraft upon waterways at
22 a rate of (number of cents) cents per gallon of motor fuel
23 sold?

24 The election authority must record the votes as "Yes" or "No".

25 If a majority of the electors voting on the question vote
26 in the affirmative, then the county may, thereafter, impose the

1 tax by an ordinance or resolution adopted by an affirmative
2 vote of a majority of the members elected or appointed to the
3 county board.

4 (c) The proceeds from the tax imposed under this Section
5 shall be used by the county solely for the purpose of
6 operating, constructing, and improving public highways and
7 waterways, and acquiring real property and rights-of-way
8 ~~right-of-ways~~ for public highways and waterways within the
9 county imposing the tax.

10 (d) A tax imposed pursuant to this Section, and all civil
11 penalties that may be assessed as an incident thereof, shall be
12 administered, collected and enforced by the Illinois
13 Department of Revenue in the same manner as the tax imposed
14 under the Retailers' Occupation Tax Act, as now or hereafter
15 amended, insofar as may be practicable; except that in the
16 event of a conflict with the provisions of this Section, this
17 Section shall control. The Department of Revenue shall have
18 full power: to administer and enforce this Section; to collect
19 all taxes and penalties due hereunder; to dispose of taxes and
20 penalties so collected in the manner hereinafter provided; and
21 to determine all rights to credit memoranda arising on account
22 of the erroneous payment of tax or penalty hereunder.

23 Whenever the Department determines that a refund shall 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

1 amount specified, and to the person named, in the notification
2 from the Department. The refund shall be paid by the State
3 Treasurer out of the County Option Motor Fuel Tax Fund.

4 The Department shall forthwith pay over to the State
5 Treasurer, ex-officio, as trustee, all taxes and penalties
6 collected hereunder, which shall be deposited into the County
7 Option Motor Fuel Tax Fund, a special fund in the State
8 Treasury which is hereby created. On or before the 25th day of
9 each calendar month, the Department shall prepare and certify
10 to the State Comptroller the disbursement of stated sums of
11 money to named counties for which taxpayers have paid taxes or
12 penalties hereunder to the Department during the second
13 preceding calendar month. The amount to be paid to each county
14 shall be the amount (not including credit memoranda) collected
15 hereunder from retailers within the county during the second
16 preceding calendar month by the Department, but not including
17 an amount equal to the amount of refunds made during the second
18 preceding calendar month by the Department on behalf of the
19 county; less the amount expended during the second preceding
20 month by the Department pursuant to appropriation from the
21 County Option Motor Fuel Tax Fund for the administration and
22 enforcement of this Section, which appropriation shall not
23 exceed \$200,000 for fiscal year 1990 and, for each year
24 thereafter, shall not exceed 2% of the amount deposited into
25 the County Option Motor Fuel Tax Fund during the preceding
26 fiscal year.

1 (e) Nothing in this Section shall be construed to authorize
2 a county to impose a tax upon the privilege of engaging in any
3 business which under the Constitution of the United States may
4 not be made the subject of taxation by this State.

5 (f) An ordinance or resolution imposing a tax hereunder or
6 effecting a change in the rate thereof shall be effective on
7 the first day of the second calendar month next following the
8 month in which the ordinance or resolution is adopted and a
9 certified copy thereof is filed with the Department of Revenue,
10 whereupon the Department of Revenue shall proceed to administer
11 and enforce this Section on behalf of the county as of the
12 effective date of the ordinance or resolution. Upon a change in
13 rate of a tax levied hereunder, or upon the discontinuance of
14 the tax, the county board of the county shall, on or not later
15 than 5 days after the effective date of the ordinance or
16 resolution discontinuing the tax or effecting a change in rate,
17 transmit to the Department of Revenue a certified copy of the
18 ordinance or resolution effecting the change or
19 discontinuance.

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

22 (Source: P.A. 86-1028; 87-289.)