



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4046

Introduced 2/27/2009, by Rep. Kevin Joyce

SYNOPSIS AS INTRODUCED:

35 ILCS 505/8

from Ch. 120, par. 424

Amends the Motor Fuel Tax Law. Provides that \$3,500,000 shall be transferred each month to the Grade Crossing Protection Fund (instead of \$2,250,000). Provides that, of the moneys transferred to the Grade Crossing Protection Fund, not less than \$12,000,000 (instead of \$6,000,000) shall be used for the construction or reconstruction of rail highway grade separation structures. Increases the amount transferred to the Transportation Regulatory Fund beginning in fiscal year 2010. Provides that the Illinois Commerce Commission may order up to \$2,000,000 per year in Grade Crossing Protection Fund moneys for the improvement of grade crossing surfaces and up to \$300,000 per year for the maintenance and renewal of four-quadrant gate vehicle detection systems located at non-high speed rail grade crossings. Effective immediately.

LRB096 11803 HLH 22634 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Motor Fuel Tax Law is amended by changing
5 Section 8 as follows:

6 (35 ILCS 505/8) (from Ch. 120, par. 424)

7 Sec. 8. Except as provided in Section 8a, subdivision
8 (h) (1) of Section 12a, Section 13a.6, and items 13, 14, 15, and
9 16 of Section 15, all money received by the Department under
10 this Act, including payments made to the Department by member
11 jurisdictions participating in the International Fuel Tax
12 Agreement, shall be deposited in a special fund in the State
13 treasury, to be known as the "Motor Fuel Tax Fund", and shall
14 be used as follows:

15 (a) 2 1/2 cents per gallon of the tax collected on special
16 fuel under paragraph (b) of Section 2 and Section 13a of this
17 Act shall be transferred to the State Construction Account Fund
18 in the State Treasury;

19 (b) \$420,000 shall be transferred each month to the State
20 Boating Act Fund to be used by the Department of Natural
21 Resources for the purposes specified in Article X of the Boat
22 Registration and Safety Act;

23 (c) \$3,500,000 ~~\$2,250,000~~ shall be transferred each month

1 to the Grade Crossing Protection Fund to be used as follows:
2 not less than \$12,000,000 ~~\$6,000,000~~ each fiscal year shall be
3 used for the construction or reconstruction of rail highway
4 grade separation structures; \$2,250,000 in fiscal years 2004
5 through 2009 and \$3,000,000 in fiscal year 2010 ~~year 2004~~ and
6 each fiscal year thereafter shall be transferred to the
7 Transportation Regulatory Fund and shall be accounted for as
8 part of the rail carrier portion of such funds and shall be
9 used to pay the cost of administration of the Illinois Commerce
10 Commission's railroad safety program in connection with its
11 duties under subsection (3) of Section 18c-7401 of the Illinois
12 Vehicle Code, with the remainder to be used by the Department
13 of Transportation upon order of the Illinois Commerce
14 Commission, to pay that part of the cost apportioned by such
15 Commission to the State to cover the interest of the public in
16 the use of highways, roads, streets, or pedestrian walkways in
17 the county highway system, township and district road system,
18 or municipal street system as defined in the Illinois Highway
19 Code, as the same may from time to time be amended, for
20 separation of grades, for installation, construction or
21 reconstruction of crossing protection or reconstruction,
22 alteration, relocation including construction or improvement
23 of any existing highway necessary for access to property or
24 improvement of any grade crossing surface including the
25 necessary highway approaches thereto of any railroad across the
26 highway or public road, or for the installation, construction,

1 reconstruction, or maintenance of a pedestrian walkway over or
2 under a railroad right-of-way, as provided for in and in
3 accordance with Section 18c-7401 of the Illinois Vehicle Code.
4 The Commission may order up to \$2,000,000 per year in Grade
5 Crossing Protection Fund moneys for the improvement of grade
6 crossing surfaces and up to \$300,000 per year for the
7 maintenance and renewal of four-quadrant gate vehicle
8 detection systems located at non-high speed rail grade
9 crossings. The Commission shall not order more than \$2,000,000
10 per year in Grade Crossing Protection Fund moneys for
11 pedestrian walkways. In entering orders for projects for which
12 payments from the Grade Crossing Protection Fund will be made,
13 the Commission shall account for expenditures authorized by the
14 orders on a cash rather than an accrual basis. For purposes of
15 this requirement an "accrual basis" assumes that the total cost
16 of the project is expended in the fiscal year in which the
17 order is entered, while a "cash basis" allocates the cost of
18 the project among fiscal years as expenditures are actually
19 made. To meet the requirements of this subsection, the Illinois
20 Commerce Commission shall develop annual and 5-year project
21 plans of rail crossing capital improvements that will be paid
22 for with moneys from the Grade Crossing Protection Fund. The
23 annual project plan shall identify projects for the succeeding
24 fiscal year and the 5-year project plan shall identify projects
25 for the 5 directly succeeding fiscal years. The Commission
26 shall submit the annual and 5-year project plans for this Fund

1 to the Governor, the President of the Senate, the Senate
2 Minority Leader, the Speaker of the House of Representatives,
3 and the Minority Leader of the House of Representatives on the
4 first Wednesday in April of each year;

5 (d) of the amount remaining after allocations provided for
6 in subsections (a), (b) and (c), a sufficient amount shall be
7 reserved to pay all of the following:

8 (1) the costs of the Department of Revenue in
9 administering this Act;

10 (2) the costs of the Department of Transportation in
11 performing its duties imposed by the Illinois Highway Code
12 for supervising the use of motor fuel tax funds apportioned
13 to municipalities, counties and road districts;

14 (3) refunds provided for in Section 13 of this Act and
15 under the terms of the International Fuel Tax Agreement
16 referenced in Section 14a;

17 (4) from October 1, 1985 until June 30, 1994, the
18 administration of the Vehicle Emissions Inspection Law,
19 which amount shall be certified monthly by the
20 Environmental Protection Agency to the State Comptroller
21 and shall promptly be transferred by the State Comptroller
22 and Treasurer from the Motor Fuel Tax Fund to the Vehicle
23 Inspection Fund, and for the period July 1, 1994 through
24 June 30, 2000, one-twelfth of \$25,000,000 each month, for
25 the period July 1, 2000 through June 30, 2003, one-twelfth
26 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,

1 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each
2 July 1 and October 1, or as soon thereafter as may be
3 practical, during the period July 1, 2004 through June 30,
4 2009, for the administration of the Vehicle Emissions
5 Inspection Law of 2005, to be transferred by the State
6 Comptroller and Treasurer from the Motor Fuel Tax Fund into
7 the Vehicle Inspection Fund;

8 (5) amounts ordered paid by the Court of Claims; and

9 (6) payment of motor fuel use taxes due to member
10 jurisdictions under the terms of the International Fuel Tax
11 Agreement. The Department shall certify these amounts to
12 the Comptroller by the 15th day of each month; the
13 Comptroller shall cause orders to be drawn for such
14 amounts, and the Treasurer shall administer those amounts
15 on or before the last day of each month;

16 (e) after allocations for the purposes set forth in
17 subsections (a), (b), (c) and (d), the remaining amount shall
18 be apportioned as follows:

19 (1) Until January 1, 2000, 58.4%, and beginning January
20 1, 2000, 45.6% shall be deposited as follows:

21 (A) 37% into the State Construction Account Fund,
22 and

23 (B) 63% into the Road Fund, \$1,250,000 of which
24 shall be reserved each month for the Department of
25 Transportation to be used in accordance with the
26 provisions of Sections 6-901 through 6-906 of the

1 Illinois Highway Code;

2 (2) Until January 1, 2000, 41.6%, and beginning January
3 1, 2000, 54.4% shall be transferred to the Department of
4 Transportation to be distributed as follows:

5 (A) 49.10% to the municipalities of the State,

6 (B) 16.74% to the counties of the State having
7 1,000,000 or more inhabitants,

8 (C) 18.27% to the counties of the State having less
9 than 1,000,000 inhabitants,

10 (D) 15.89% to the road districts of the State.

11 As soon as may be after the first day of each month the
12 Department of Transportation shall allot to each municipality
13 its share of the amount apportioned to the several
14 municipalities which shall be in proportion to the population
15 of such municipalities as determined by the last preceding
16 municipal census if conducted by the Federal Government or
17 Federal census. If territory is annexed to any municipality
18 subsequent to the time of the last preceding census the
19 corporate authorities of such municipality may cause a census
20 to be taken of such annexed territory and the population so
21 ascertained for such territory shall be added to the population
22 of the municipality as determined by the last preceding census
23 for the purpose of determining the allotment for that
24 municipality. If the population of any municipality was not
25 determined by the last Federal census preceding any
26 apportionment, the apportionment to such municipality shall be

1 in accordance with any census taken by such municipality. Any
2 municipal census used in accordance with this Section shall be
3 certified to the Department of Transportation by the clerk of
4 such municipality, and the accuracy thereof shall be subject to
5 approval of the Department which may make such corrections as
6 it ascertains to be necessary.

7 As soon as may be after the first day of each month the
8 Department of Transportation shall allot to each county its
9 share of the amount apportioned to the several counties of the
10 State as herein provided. Each allotment to the several
11 counties having less than 1,000,000 inhabitants shall be in
12 proportion to the amount of motor vehicle license fees received
13 from the residents of such counties, respectively, during the
14 preceding calendar year. The Secretary of State shall, on or
15 before April 15 of each year, transmit to the Department of
16 Transportation a full and complete report showing the amount of
17 motor vehicle license fees received from the residents of each
18 county, respectively, during the preceding calendar year. The
19 Department of Transportation shall, each month, use for
20 allotment purposes the last such report received from the
21 Secretary of State.

22 As soon as may be after the first day of each month, the
23 Department of Transportation shall allot to the several
24 counties their share of the amount apportioned for the use of
25 road districts. The allotment shall be apportioned among the
26 several counties in the State in the proportion which the total

1 mileage of township or district roads in the respective
2 counties bears to the total mileage of all township and
3 district roads in the State. Funds allotted to the respective
4 counties for the use of road districts therein shall be
5 allocated to the several road districts in the county in the
6 proportion which the total mileage of such township or district
7 roads in the respective road districts bears to the total
8 mileage of all such township or district roads in the county.
9 After July 1 of any year, no allocation shall be made for any
10 road district unless it levied a tax for road and bridge
11 purposes in an amount which will require the extension of such
12 tax against the taxable property in any such road district at a
13 rate of not less than either .08% of the value thereof, based
14 upon the assessment for the year immediately prior to the year
15 in which such tax was levied and as equalized by the Department
16 of Revenue or, in DuPage County, an amount equal to or greater
17 than \$12,000 per mile of road under the jurisdiction of the
18 road district, whichever is less. If any road district has
19 levied a special tax for road purposes pursuant to Sections
20 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such
21 tax was levied in an amount which would require extension at a
22 rate of not less than .08% of the value of the taxable property
23 thereof, as equalized or assessed by the Department of Revenue,
24 or, in DuPage County, an amount equal to or greater than
25 \$12,000 per mile of road under the jurisdiction of the road
26 district, whichever is less, such levy shall, however, be

1 deemed a proper compliance with this Section and shall qualify
2 such road district for an allotment under this Section. If a
3 township has transferred to the road and bridge fund money
4 which, when added to the amount of any tax levy of the road
5 district would be the equivalent of a tax levy requiring
6 extension at a rate of at least .08%, or, in DuPage County, an
7 amount equal to or greater than \$12,000 per mile of road under
8 the jurisdiction of the road district, whichever is less, such
9 transfer, together with any such tax levy, shall be deemed a
10 proper compliance with this Section and shall qualify the road
11 district for an allotment under this Section.

12 In counties in which a property tax extension limitation is
13 imposed under the Property Tax Extension Limitation Law, road
14 districts may retain their entitlement to a motor fuel tax
15 allotment if, at the time the property tax extension limitation
16 was imposed, the road district was levying a road and bridge
17 tax at a rate sufficient to entitle it to a motor fuel tax
18 allotment and continues to levy the maximum allowable amount
19 after the imposition of the property tax extension limitation.
20 Any road district may in all circumstances retain its
21 entitlement to a motor fuel tax allotment if it levied a road
22 and bridge tax in an amount that will require the extension of
23 the tax against the taxable property in the road district at a
24 rate of not less than 0.08% of the assessed value of the
25 property, based upon the assessment for the year immediately
26 preceding the year in which the tax was levied and as equalized

1 by the Department of Revenue or, in DuPage County, an amount
2 equal to or greater than \$12,000 per mile of road under the
3 jurisdiction of the road district, whichever is less.

4 As used in this Section the term "road district" means any
5 road district, including a county unit road district, provided
6 for by the Illinois Highway Code; and the term "township or
7 district road" means any road in the township and district road
8 system as defined in the Illinois Highway Code. For the
9 purposes of this Section, "road district" also includes park
10 districts, forest preserve districts and conservation
11 districts organized under Illinois law and "township or
12 district road" also includes such roads as are maintained by
13 park districts, forest preserve districts and conservation
14 districts. The Department of Transportation shall determine
15 the mileage of all township and district roads for the purposes
16 of making allotments and allocations of motor fuel tax funds
17 for use in road districts.

18 Payment of motor fuel tax moneys to municipalities and
19 counties shall be made as soon as possible after the allotment
20 is made. The treasurer of the municipality or county may invest
21 these funds until their use is required and the interest earned
22 by these investments shall be limited to the same uses as the
23 principal funds.

24 (Source: P.A. 94-839, eff. 6-6-06; 95-744, eff. 7-18-08.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.