



Sen. Toi W. Hutchinson

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1 AMENDMENT TO SENATE BILL 2652

2 AMENDMENT NO. _____. Amend Senate Bill 2652 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Article may be cited as the
5 Regional Cooperation and Smart Growth in Eastern Will County
6 Act.

7 Section 5. Findings and purpose.

8 (1) The purpose of this Act is promoting responsible
9 growth, regional cooperation, a regional approach to land use
10 planning and design standards, revenue sharing among member
11 entities, and preserving and enhancing the quality of life
12 within the District.

13 (2) The south suburban airport to be sited in eastern Will
14 County, Illinois, will generate development in and around
15 surrounding jurisdictions. This development will have a
16 significant impact upon the region and will provide burdens as

1 well as benefits upon existing infrastructure. These burdens
2 and benefits need to be shared and apportioned equitably.

3 (3) Cooperation among the surrounding local governments
4 and agencies will support economic development and increase the
5 potential benefits of the airport while limiting the adverse
6 impacts upon the region. Sharing of certain revenues among the
7 municipal members of the District will encourage cooperation,
8 promote a regional approach to land use planning, and assist
9 each member in dealing with adverse impact upon their
10 municipality.

11 (4) It is also a purpose of this Act to ensure that future
12 land uses within the area designated as the Eastern Will County
13 Development District are compatible with the airport and its
14 operations so that future operations and growth are not unduly
15 constrained.

16 (5) This Act creates an entity, entitled the Eastern Will
17 County Development District, to implement the purpose of this
18 Act. The District should have adequate powers to achieve its
19 goals and objectives, to be self-supporting, and to raise
20 revenue in order to assist local governments address negative
21 impacts upon infrastructure.

22 Section 10. Definitions. As used in this Act:

23 "Airport" or "south suburban airport" means a south
24 suburban airport, as defined by the Federal Aviation
25 Administration, located in eastern Will County, Illinois.

1 "Airport authority" means an authority created to
2 establish and maintain a south suburban airport located in
3 eastern Will County, Illinois.

4 "Airport-dependent uses" means uses that are typically
5 found on or near an airport and must, by the nature of their
6 operations, services, or products, be located on an airport or
7 have direct and immediate access to an airport or airport
8 runway. Such uses include, but are not limited to, airport
9 terminals and control towers; airport runways, taxiways, taxi
10 lanes, aircraft parking lanes, and auxiliary roads; hangars;
11 aircraft rescue and firefighting facilities; air cargo
12 storage, but not large distribution facilities; aircraft
13 maintenance, washing, and repair shops; restaurants and hotels
14 within a terminal; airline catering services; express mail and
15 package sorting facilities, aviation fuel farms and services;
16 aircraft testing facilities; airport administrative offices;
17 airport authority offices and maintenance facilities; on-site
18 parking; corporate facilities, including aircraft storage and
19 operations; and any other use deemed to be necessary for the
20 flight operation of the airport.

21 "Board" means the Board of Directors of the Eastern Will
22 County Development District.

23 "Compatible land use" means any use of lands, buildings,
24 and structures which is harmonious to the uses and activities
25 being conducted on the adjoining lands and properties and which
26 does not adversely affect or unreasonably impact any use or

1 enjoyment of the adjoined land.

2 "County" means Will County.

3 "District" means the Eastern Will County Development
4 District.

5 "District Land Use Plan" means a written statement of land
6 use policies, goals, and objectives, together with maps,
7 graphs, charts, illustrations or any other form of written or
8 visual communication, as appropriate, that is adopted by the
9 District.

10 "Member entities" means the villages of Beecher, Crete,
11 Monee, Peotone, University Park, the County of Will, and any
12 new municipality incorporated under the laws of the State of
13 Illinois which becomes a member of the Eastern Will County
14 Development District.

15 "Member villages" means the villages of Beecher, Crete,
16 Monee, Peotone, and University Park and any new municipality
17 incorporated under the laws of the State of Illinois and
18 located entirely within the boundaries of the Eastern Will
19 County Development District.

20 Section 15. Creation of District.

21 (a) The Eastern Will County Development District is created
22 as a political subdivision, body politic, and municipal
23 corporation. The territorial jurisdiction of the District is
24 the rectangular geographic area within the following
25 boundaries: commencing at the southwest corner of Peotone

1 Township and the southern boundary line of Will County, East to
2 the Indiana state line, then north to a line one mile south of
3 the Northern Will-Cook County line, then west to the western
4 boundary line of Green Garden and Peotone townships, then south
5 to the southern boundary of Will County.

6 (b) The governing and administrative powers of the District
7 are vested in its Board of Directors, consisting of one member
8 appointed by the President of the Village of Beecher with the
9 consent of the Village Board, one member appointed by the
10 President of the Village of Crete with the consent of the
11 Village Board, one member appointed by the President of the
12 Village of Monee with the consent of the Village Board, one
13 member appointed by the President of the Village of Peotone
14 with the consent of the Village Board, one member appointed by
15 the Mayor of the Village of University Park with the consent of
16 the Village Board, one member appointed by the County Executive
17 of Will County with the consent of the County Board, and one
18 member appointed by the governing body of the airport
19 authority.

20 (c) The members of the Board shall be residents of Will
21 County, Illinois, with their primary residence located within
22 the Eastern Will County Development District.

23 (d) The terms of the initial appointees shall commence 30
24 days after the effective date of this Act. The duration of the
25 term of each of the initial appointees shall be determined by
26 lot as follows: one of the appointees shall serve a term

1 expiring on the third Monday in May in the second year
2 following the effective date of this Act; 2 of the appointees
3 shall serve terms expiring on the third Monday in May in the
4 third year following the effective date of this Act; 2 of the
5 appointees shall serve terms expiring on the third Monday in
6 May in the fourth year following the effective date of this
7 Act, and 2 of the appointees shall be appointed to serve terms
8 expiring on the third Monday in May in the fifth year following
9 the effective date of this Act. All successors shall be
10 appointed by the original appointing authority and hold office
11 for a term of 4 years commencing the third Monday in May of the
12 year in which their term commences, except in case of an
13 appointment to fill a vacancy. Vacancies shall be filled for
14 the remainder of the vacated term by the original appointing
15 authority. Each member appointed to the Board shall serve until
16 his or her successor is appointed and qualified.
17 Notwithstanding the time remaining on a specific board member's
18 term, board members shall serve at the pleasure of the
19 appointing authority and a board member may be replaced by the
20 appointing entity during that board member's term of office. A
21 new board member who is appointed to replace a current board
22 member during the current board member's term shall serve the
23 remainder of the current board member's term in office. The
24 appointing authority shall give notice of the appointment of
25 the new board member, including a certified copy of the
26 resolution appointing the new member, to the Board via

1 certified mail. The new member will commence serving at the
2 next meeting of the Board following notice of appointment.

3 (e) The Board shall annually choose one of its members to
4 serve as Chair and one of its members to serve as Secretary.
5 The Board shall appoint a Treasurer for the District who is not
6 required to be a member of the Board.

7 (f) Members of the Board shall serve without compensation
8 for their services as members but may be reimbursed for all
9 necessary expenses incurred in connection with the performance
10 of their duties as members.

11 (g) Within 30 days after appointment of the initial
12 members, the Board shall organize for the transaction of
13 business, select members to serve as Chair and Secretary, and
14 adopt by-laws. Thereafter, the Board shall meet on the call of
15 the Chair or upon written notice by 4 members of the Board. A
16 majority of the members of the Board must be present in person
17 to constitute a quorum for the transaction of business. The
18 affirmative vote of a majority of a quorum of the members shall
19 be necessary for the adoption of any ordinance or resolution.
20 All ordinances and resolutions, before taking effect, shall be
21 in writing, signed by the Chair, and attested by the Secretary.

22 (h) The Board shall appoint an Executive Director, who is
23 not a member of the Board, who shall hold office at the
24 discretion of the Board. The Executive Director shall be the
25 chief administrative and operational officer of the District,
26 direct and supervise its administrative affairs and general

1 management, perform such other duties as may be prescribed from
2 time to time by the Board, and receive compensation fixed by
3 the Board. The Executive Director shall attend all meetings of
4 the Board, but no action of the Board shall be invalid on
5 account of the absence of the Executive Director from a
6 meeting.

7 (i) Should a new municipality incorporate within the
8 District, that new municipality shall become a member of the
9 District and shall be entitled to all rights and
10 responsibilities of membership including voting membership
11 upon the Board and revenue sharing, so long as the following
12 criteria are met:

13 (1) The new municipality is incorporated as a village
14 or city under Illinois law, and

15 (2) the entire corporate boundaries of the new
16 municipality are within the District at the time of
17 incorporation.

18 (j) The Board may set, through its by-laws, a process by
19 which other municipalities may become a member of the District.
20 A recommendation by a majority vote of the Board to add an
21 additional member entity shall be considered persuasive by the
22 General Assembly in considering an amendment to this Act to
23 include the additional municipality.

24 Section 20. Administration. The District has the authority
25 to establish a budget, raise revenue for administration, and

1 retain staff, agents, and consultants to carry out planning,
2 development review, and other duties and exercise all other
3 powers incidental, necessary, convenient, or desirable to
4 carry out and effectuate the powers granted in this Act.
5 Without limitation, the District may enter into
6 intergovernmental agreements under the Intergovernmental
7 Cooperation Act, engage the services of the Illinois Finance
8 Authority, sue and be sued, have and use a corporate seal,
9 designate a fiscal year, and enter into contracts and leases.

10 Section 25. Planning. The District shall adopt an overall
11 District Land Use Plan that identifies likely key development
12 areas within the airport environs and lays the foundation for
13 design and development standards and development review in that
14 area. The District Land Use Plan is to be prepared by staff and
15 consultants. Key elements shall include open space,
16 transportation needs, compatibility of uses, and noise
17 mitigation. Preparation of the District Land Use Plan shall
18 include an opportunity for input from the governing body of
19 each township with land within the District, and those Illinois
20 cities and villages having a statutory planning area within the
21 District boundaries. Prior to final approval of the District
22 Land Use Plan by the Board, the Board shall hold a public
23 hearing, pursuant to public notice of not less than 5 days and
24 not more than 20 days, for the purpose of providing an
25 opportunity for input by these townships and municipalities and

1 the public.

2 The District Land Use Plan shall be transmitted to the
3 governing bodies of the member villages and Will County for
4 review and consideration. The District Land Use Plan shall not
5 become effective until the governing bodies of Will County and
6 of each member village of the District has approved the plan.
7 However, approval of the District Land Use Plan shall not be
8 unreasonably withheld. Should any member village fail to
9 approve or reject the District Land Use Plan for a period
10 greater than 90 days after receipt of the plan from the
11 District, that failure to act shall be deemed to be an approval
12 of the District Land Use Plan. In the event that a member
13 village shall reject the District Land Use Plan, that member
14 village shall provide written notice of the rejection of the
15 plan to the District. Said rejection notice shall include the
16 specific reasons for said rejection of the District Land Use
17 Plan. The District and its member villages and Will County
18 shall make good faith efforts to come to an agreement regarding
19 the District Land Use Plan. It shall be public policy that a
20 District Land Use Plan be approved by the members of the
21 District in order that the District may effectively perform its
22 statutory mission.

23 The District Land Use Plan shall cover all territory within
24 the District, including land uses within the member villages,
25 focusing particularly on peripheral properties that may be
26 directly affected by airport-related development.

1 The District Land Use Plan shall be reviewed and revised
2 every 5 years, or at such times as may be deemed necessary by a
3 majority vote of the Board, to reflect recent developments,
4 annexations, and changing land use needs within the region.

5 Section 30. Design and development standards and
6 development review. After adopting a District Land Use Plan,
7 the District shall promulgate design and development
8 standards. The design and development standards shall
9 establish baseline requirements within the District in order to
10 ensure that baseline design and development standards are
11 consistent throughout the District. The District shall work
12 with each member entity to encourage that the member villages
13 and county shall adopt said baseline design and development
14 standards.

15 The District shall review the design and development
16 standards of each member village and of Will County and the
17 District shall certify that said member village or county
18 standards conform to the District's baseline design and
19 development standards. Notwithstanding adoption by the
20 District of design and development standards, any member
21 village or County may adopt land use regulations that are more
22 stringent than those of the District.

23 Development applications shall be handled by the
24 jurisdiction within which the project is located. The host
25 jurisdiction shall review the application, applying the

1 District's design and development standards, in addition to any
2 other normal development requirements. The host jurisdiction
3 shall forward the development application to the District for
4 comment and certification. The District shall review the
5 application and make specific findings regarding the impact of
6 the project and determinations regarding mitigation of
7 negative impact.

8 The certification process shall be determined by the Board
9 and shall require a finding by a majority of the Board that a
10 proposed development conforms to the District Land Use Plan,
11 conforms to the District's design and development standards,
12 and has adequately addressed the need to mitigate negative
13 impact upon regional infrastructure in order for the District
14 to make a positive finding. If the District finds that the
15 proposed development satisfies the preceding criteria, the
16 District shall notify the affected municipality that the
17 District has reached a positive finding regarding the proposed
18 development. The District shall issue a Certificate of
19 Conformance to the host jurisdiction as evidence of the
20 positive finding.

21 If any member entity shall object to a proposed
22 development, that development shall be subject to a review
23 process to be determined by the Board that shall require a
24 two-thirds majority of the Board for a positive finding and
25 issuance of a Certificate of Conformance.

26 If the District makes a finding that a proposed development

1 fails to conform to the District Land Use Plan, fails to
2 satisfy the applicable design and development standards, or
3 fails to adequately address the need to mitigate negative
4 impact upon regional infrastructure, the District shall notify
5 the affected municipality of the District's negative finding. A
6 negative finding by the District shall trigger a requirement
7 that the affected host jurisdiction reach an extraordinary
8 majority within their approval process in order to approve the
9 proposed development. If a municipality should approve a
10 development by an extraordinary majority and that development
11 has failed to cure the defects that resulted in a negative
12 finding by the District, then the proposed development shall be
13 deemed a non-conforming development.

14 The District shall act in a timely manner in reviewing
15 development proposals. After this timely review, the District
16 shall convey, in writing, to the host jurisdiction the
17 District's certification of a positive finding or a negative
18 finding regarding the proposed development. A negative finding
19 shall include the reasons for the negative finding and
20 suggestions for ways to cure the negative aspects of the
21 proposed development.

22 The District's authority is subject to all pre-annexation
23 or other governmental agreements of the member villages and
24 county in existence on the effective date of this Act.

25 If land in the District is annexed into a member village,
26 the District shall continue to have development review power

1 over that property as set forth in this Section and the design
2 and development standards shall continue to apply. It shall be
3 the policy of the District that when development is proposed in
4 any unincorporated area, the District shall encourage, and
5 assist in, annexation to an appropriate municipality.

6 Notwithstanding any other provision of this Section,
7 undeveloped land within each member village on the effective
8 date of this Act that has not received development approval or
9 has not been the subject of a pre-existing annexation or
10 development agreement must comply with uniform airport noise
11 and safety and hazard mitigation land use regulations
12 promulgated by the District, the airport authority, or other
13 governmental agencies.

14 Building code and zoning enforcement authority shall be
15 exercised by the member village in which the property is
16 located and shall be exercised by the County if the property is
17 not located in a member village.

18 The review and certification authority of the District
19 shall be limited to non-residential development within the
20 District, except the District may require notice of all
21 proposed development for the purpose of determining
22 consistency with the District Land Use Plan. Airport-dependent
23 uses on land owned by the airport authority shall be exempt
24 from the District's review and certification process.

25 Section 35. Land acquisition. The District may acquire by

1 purchase or gift and hold or dispose of real or personal
2 property or rights or interests therein. The District may
3 acquire property from willing sellers, but the District may not
4 exercise the power of eminent domain. Prior to the acquisition
5 of real property, the District shall provide 30 days' notice to
6 the airport authority in order that the airport authority may
7 make a determination that the land acquisition will not hinder
8 any airport uses or future expansion.

9 Section 40. Airport noise monitoring, mitigation, and
10 enforcement programs. Appropriate notations, in a form to be
11 determined by the District, shall be required on all property
12 deeds of land within the District that are within delineated
13 noise impacted areas as defined by the airport authority.

14 The District may act as a representative of the member
15 villages in discussing noise issues and cooperative mitigation
16 measures with the airport authority and the Federal Aviation
17 Administration.

18 Section 45. Economic development and marketing. The
19 District may market and promote economic development
20 activities in cooperation with the County, member villages, and
21 other agencies. The District may help fund economic development
22 activities by the County, villages, townships, and other
23 entities. The District may seek grants, loans, or other
24 financing opportunities to promote its planning and economic

1 development mission or for operations.

2 Section 50. Infrastructure and service mitigation fees.
3 The District may impose infrastructure and service mitigation
4 fees on new industrial and commercial development within the
5 District to pay for infrastructure and services necessitated by
6 that development. New industrial and commercial development
7 shall be industrial and commercial property that is developed,
8 as evidenced by an application for building permit, within the
9 District, after the effective date of this Act.

10 Section 55. Property taxes. The District may levy ad
11 valorem property taxes upon all new industrial and commercial
12 taxable property in the District. New industrial and commercial
13 property shall be property that is developed, as evidenced by
14 an application for building permit within the District, after
15 the effective date of this Act. Proceeds shall be used for the
16 administrative and operating expenses of the District, to carry
17 out planning and development review functions, and to fund
18 infrastructure improvements within the District.

19 Section 60. Use and occupation taxes.

20 (a) The District shall not have the authority to levy taxes
21 for any purpose, except as provided in subsections (b), (c),
22 (d), (e), and (f).

23 (b) By ordinance the District shall, as soon as practicable

1 from the effective date of this Act, impose an occupation tax
2 upon all persons engaged within the corporate limits of the
3 District in the business of renting, leasing, or letting rooms
4 in a hotel, as defined in the Hotel Operators' Occupation Tax
5 Act, at a rate of 2.5% of the gross rental receipts from the
6 renting, leasing, or letting of rooms within the District,
7 excluding, however, from gross rental receipts the proceeds of
8 renting, leasing, or letting to permanent residents of a hotel
9 as defined in that Act. Gross rental receipts shall not include
10 charges that are added on account of the liability arising from
11 any tax imposed by the State or any governmental agency on the
12 occupation of renting, leasing or letting rooms in a hotel.

13 The tax imposed by the District under this subsection and
14 all civil penalties that may be assessed as an incident to that
15 tax shall be collected and enforced by the Illinois Department
16 of Revenue. The certificate of registration that is issued by
17 the Department to a lessor under the Hotel Operators'
18 Occupation Tax Act shall permit that registrant to engage in a
19 business that is taxable under any ordinance enacted under this
20 subsection without registering separately with the Department
21 under that ordinance or under this subsection. The Department
22 shall have full power to administer and enforce this
23 subsection, to collect all taxes and penalties due under this
24 subsection, to dispose of taxes and penalties so collected in
25 the manner provided in this subsection, and to determine all
26 rights to memoranda arising on account of the erroneous payment

1 of tax or penalty under this subsection. In the administration
2 of, and compliance with, this subsection, the Department and
3 persons who are subject to this subsection shall have the same
4 rights, remedies, privileges, powers, and duties, shall be
5 subject to the same conditions, restrictions, limitations,
6 penalties, and definitions of terms, and shall employ the same
7 modes of procedure as are prescribed in the Hotel Operators'
8 Occupation Tax Act (except where the Act is inconsistent with
9 this subsection), as fully as the Act were set out in this
10 subsection.

11 Whenever the Department determines that a refund should be
12 made under this subsection to a claimant instead of issuing a
13 credit memorandum, the Department shall notify the State
14 Comptroller, who shall cause a warrant to be drawn for the
15 amount specified and to the person named in the notification
16 from the Department. The refund shall be paid by the State
17 Treasurer.

18 Persons subject to any tax under the authority imposed in
19 this subsection may reimburse themselves for their tax
20 liability for that tax by separately stating that tax as an
21 additional charge, which charge may be stated in combination,
22 in a single amount, with State taxes imposed under the Hotel
23 Operators' Occupation Tax Act and the municipal tax imposed
24 under Section 8-3-13 of the Illinois Municipal Code.

25 The person filing the return shall, at the time of filing
26 the return, pay to the Department the amount of the tax, less a

1 discount of 2.1% or \$25 per calendar year, whichever is
2 greater, which is allowed to reimburse the operator for the
3 expenses incurred in keeping records, preparing and filing
4 returns, remitting the tax, and supplying data to the
5 Department on request.

6 The Department shall forthwith pay over to the State
7 Treasurer, ex officio, as trustee for the District, all taxes
8 and penalties collected under this subsection for deposit into
9 a trust fund held outside the State Treasury. On or before the
10 25th day of each calendar month, the Department shall certify
11 to the Comptroller the amounts to be paid, which shall be the
12 amounts (not including credit memoranda) collected under this
13 subsection during the second preceding calendar month by the
14 Department, less any amounts determined by the Department to be
15 necessary for payment of refunds.

16 A certified copy of any ordinance imposing or discontinuing
17 a tax under this subsection or effecting a change in the rate
18 of that tax shall be filed with the Illinois Department of
19 Revenue, whereupon the Department shall proceed to administer
20 and enforce this subsection on behalf of the District as of the
21 first day of the third calendar month following the date of
22 filing.

23 (c) By ordinance the District shall, as soon as practicable
24 after the effective date of this Act, impose a tax upon all
25 persons engaged in the business of renting automobiles in the
26 District at the rate of 6% of the gross receipts from that

1 business, except that no tax shall be imposed on the business
2 of renting automobiles for use as taxicabs or in livery
3 service. The tax imposed under this subsection and all civil
4 penalties that may be assessed as an incident to that tax shall
5 be collected and enforced by the Illinois Department of
6 Revenue. The certificate of registration issued by the
7 Department to a retailer under the Retailers' Occupation Tax
8 Act or under the Automobile Renting Occupation and Use Tax Act
9 shall permit that person to engage in a business that is
10 taxable under any ordinance enacted under this subsection
11 without registering separately with the Department under that
12 ordinance or under this subsection. The Department shall have
13 full power to administer and enforce this subsection, to
14 collect all taxes and penalties due under this subsection, to
15 dispose of taxes and penalties so collected in the manner
16 provided in this subsection, and to determine all rights to
17 credit memoranda arising on account of the erroneous payment of
18 tax or penalty under this subsection. In the administration of
19 and compliance with this subsection, the Department and persons
20 who are subject to this subsection shall have the same rights,
21 remedies, privileges, immunities, powers, and duties, be
22 subject to the same conditions, restrictions, limitations,
23 penalties, and definitions of terms, and employ the same modes
24 of procedure as are as the Department may 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 prescribed in Sections 2 and 3 (in respect to all provisions of
3 those Sections other than the State rate of tax; and in respect
4 to the provisions of the Retailers' Occupation Tax Act referred
5 to in those Sections, except as to the disposition of taxes and
6 penalties collected, except for the provision allowing
7 retailers a deduction from the tax to cover certain costs, and
8 except that credit memoranda issued under this subsection may
9 not be used to discharge any State tax liability) of the
10 Automobile Renting Occupation and Use Tax Act, as fully as if
11 provisions contained in those Sections of that Act were set
12 forth in this subsection.

13 Persons subject to any tax imposed under the authority
14 granted in this subsection may reimburse themselves for their
15 tax liability under this subsection by separately stating that
16 tax as an additional charge, which charge may be stated in
17 combination, in a single amount, with State tax that sellers
18 are required to collect under the Automobile Renting Occupation
19 and Use Tax Act, pursuant to bracket schedules as the
20 Department may prescribe. Whenever the Department determines
21 that a refund should be made under this Section to a claimant
22 instead of issuing a credit memorandum, the Department shall
23 notify the State Comptroller, who shall cause a warrant to be
24 drawn for the amount specified and to the person named in the
25 notification from the Department. The refund shall be paid by
26 the State Treasurer.

1 The Department shall forthwith pay over to the State
2 Treasurer, ex officio, as trustee, all taxes and penalties
3 collected under this subsection for deposit into a trust fund
4 held outside the State Treasury. On or before the 25th day of
5 each calendar month, the Department shall certify to the
6 Comptroller the amounts to be paid under this Section (not
7 including credit memoranda) or collected under this subsection
8 during the second preceding calendar month by the Department,
9 less any amount determined by the Department to be necessary
10 for payment of refunds. Within 10 days after receipt by the
11 Comptroller of the Department's certification, the Comptroller
12 shall cause the orders to be drawn for such amounts, and the
13 Treasurer shall administer those amounts.

14 Nothing in this subsection authorizes the District to
15 impose a tax upon the privilege of engaging in any business
16 that under the Constitution of the United States may not be
17 made the subject of taxation by this State.

18 A certified copy of any ordinance imposing or discontinuing
19 a tax under this subsection or effecting a change in the rate
20 of that tax shall be filed with the Illinois Department of
21 Revenue, whereupon the Department shall proceed to administer
22 and enforce this subsection on behalf of the District as of the
23 first day of the third calendar month following the date of
24 filing.

25 (d) By ordinance the District shall, as soon as practicable
26 after the effective date of this Act, impose a tax upon the

1 privilege of using in the District an automobile that is rented
2 from a rentor outside Illinois and is titled or registered with
3 an agency of this State's government at a rate of 6% of the
4 rental price of that automobile, except that no tax shall be
5 imposed on the privilege of using automobiles rented for use as
6 taxicabs or in livery service. The tax shall be collected from
7 persons whose Illinois address for titling or registration
8 purposes is given as being in the District. The tax shall be
9 collected by the Department of Revenue for the District. The
10 tax must be paid to the State or an exemption determination
11 must be obtained from the Department of Revenue before the
12 title or certificate of registration for the property may be
13 issued. The tax or proof of exemption may be transmitted to the
14 Department by way of the State agency with which or State
15 officer with whom the tangible personal property must be titled
16 or registered if the Department and that agency or State
17 officer determine that this procedure will expedite the
18 processing of applications for title or registration.

19 The Department shall have full power to administer and
20 enforce this subsection, to collect all taxes, penalties, and
21 interest due under this subsection, to dispose of taxes,
22 penalties, and interest so collected in the manner provided in
23 this subsection, and to determine all rights to credit
24 memoranda or refunds arising on account of the erroneous
25 payment of tax, penalty, or interest under this subsection. In
26 the administration of and compliance with this subsection, the

1 Department and persons who are subject to this subsection shall
2 have the same rights, remedies, privileges, immunities,
3 powers, and duties, be subject to the same conditions,
4 restrictions, limitations, penalties, and definitions of
5 terms, and employ the same modes of procedure as are prescribed
6 in Sections 2 and 4 (except provisions pertaining to the State
7 rate of tax; and in respect to the provisions of the Use Tax
8 Act referred to in that Section, except provisions concerning
9 collection or refunding of the tax by retailers, except the
10 provisions of Section 19 pertaining to claims by retailers,
11 except the last paragraph concerning refunds, and except that
12 credit memoranda issued under this subsection may not be used
13 to discharge any State tax liability) of the Automobile Renting
14 Occupation and Use Tax Act, as fully as if provisions contained
15 in those Sections of that Act were set forth in this
16 subsection.

17 Whenever the Department determines that a refund should be
18 made under this subsection to a claimant instead of issuing a
19 credit memorandum, the Department shall notify the State
20 Comptroller, who shall cause a warrant to be drawn for the
21 amount specified and to the person named in the notification
22 from the Department. The refund shall be paid by the State
23 Treasurer.

24 The Department shall forthwith pay over to the State
25 Treasurer, ex officio, as trustee, all taxes, penalties, and
26 interest collected under this subsection for deposit into a

1 trust fund held outside the State Treasury. On or before the
2 25th day of each calendar month, the Department shall certify
3 to the State Comptroller the amounts to be paid, which shall be
4 the amounts (not including credit memoranda) collected under
5 this subsection during the second preceding calendar month by
6 the Department, less any amounts determined by the Department
7 to be necessary for payment of refunds. Within 10 days after
8 receipt by the State Comptroller of the Department's
9 certification, the Comptroller shall cause the orders to be
10 drawn for such amounts, and the Treasurer shall administer
11 those amounts.

12 A certified copy of any ordinance imposing or discontinuing
13 a tax or effecting a change in the rate of that tax shall be
14 filed with the Illinois Department of Revenue, whereupon the
15 Department shall proceed to administer and enforce this
16 subsection on behalf of the District as of the first day of the
17 third calendar month following the date of filing.

18 (f) By ordinance the District shall, as soon as practicable
19 after the effective date of this Act, impose an occupation tax
20 on all persons, other than a governmental agency, engaged in
21 the business of providing ground transportation for hire to
22 passengers in the District at a rate of (i) \$2 per taxi or
23 livery vehicle departure with passengers for hire from
24 commercial service airports in the District, (ii) for each
25 departure with passengers for hire from a commercial service
26 airport in the District in a bus or van operated by a person

1 other than a person described in item (iii): \$9 per bus or van
2 with a capacity of one to 12 passengers, \$18 per bus or van
3 with a capacity of 13 to 24 passengers, and \$27 per bus or van
4 with a capacity of over 24 passengers, and (iii) for each
5 departure with passengers for hire from a commercial service
6 airport in the District in a bus or van operated by a person
7 regulated by the Interstate Commerce Commission or Illinois
8 Commerce Commission, operating scheduled service from the
9 airport, and charging fares on a per passenger basis: \$1 per
10 passenger for hire in each bus or van. The term "commercial
11 service airport" means the south suburban airport as defined by
12 this Act.

13 In the ordinance imposing the tax, the District may provide
14 for the administration and enforcement of the tax and the
15 collection of the tax from persons subject to the tax as the
16 District determines to be necessary or practicable for the
17 effective administration of the tax. The District may enter
18 into agreements as it deems appropriate with any governmental
19 agency providing for that agency to act as the District's agent
20 to collect the tax.

21 In the ordinance imposing the tax, the District may
22 designate a method or methods for persons subject to the tax to
23 reimburse themselves for the tax liability arising under the
24 ordinance (i) by separately stating the full amount of the tax
25 liability as an additional charge to passengers departing the
26 airports, (ii) by separately stating one-half of the tax

1 liability as an additional charge to both passengers departing
2 from and to passengers arriving at the airports, or (iii) by
3 some other method determined by the District.

4 All taxes, penalties, and interest collected under any
5 ordinance adopted under this subsection, less any amounts
6 determined to be necessary for the payment of refunds, shall be
7 paid forthwith to the State Treasurer, ex officio, for
8 disbursement.

9 Section 65. Initial funding. The member entities and the
10 State of Illinois shall provide funding for the first 3 years
11 of the District's expenses pursuant to the following formula:

12 (i) Each member entity shall contribute to the District
13 a sum equal to \$2 per person for each resident of that
14 member entity, as determined by the most recent census,
15 residing within the District per annum for 3 consecutive
16 years. The total of this annual contribution shall be
17 deemed the Local Contribution; and

18 (ii) The State of Illinois shall provide matching funds
19 to the District in an amount equal to the Local
20 Contribution for 3 consecutive years.

21 Section 70. Special assessments. The District may levy,
22 assess, and collect special assessments, except with respect to
23 property that is not subject to special assessments, on new
24 industrial and commercial development. New industrial and

1 commercial development shall be industrial and commercial
2 property that is developed, as evidenced by an application for
3 building permit, within the District, after the effective date
4 of this Act.

5 Section 75. Revenue Bonds. The District may borrow money
6 from the United States Government or an agency thereof, or from
7 any other public or private source, for the purposes of the
8 District and, as evidence thereof, may issue its revenue bonds
9 payable solely from the revenue from the operation of the
10 District and any other funds available to the District for such
11 purposes. These bonds may be issued with maturities not
12 exceeding 40 years from the date of the bonds, and in such
13 amounts as may be necessary to provide sufficient funds,
14 together with interest, for the purposes of the District. These
15 bonds shall bear interest at a rate not more than the maximum
16 rate authorized by the Bond Authorization Act, payable
17 semi-annually, may be made registerable as to principal, and
18 may be made payable and callable as provided on any interest
19 payment date at a price of par and accrued interest under such
20 terms and conditions as may be fixed by the ordinance
21 authorizing the issuance of the bonds. Bonds issued under this
22 Section are negotiable instruments. They shall be executed by
23 the Chair and members of the Board, attested by the Secretary,
24 and shall be sealed with the corporate seal of the District. In
25 case any Board member or officer whose signature appears on the

1 bonds or coupons ceases to hold that office before the bonds
2 are delivered, such officer's signature shall nevertheless be
3 valid and sufficient for all purposes as though the officer had
4 remained in office until the bonds were delivered. The bonds
5 shall be sold in such manner and upon such terms as the Board
6 shall determine, except that the selling price shall be such
7 that the interest cost to the District of the proceeds of the
8 bonds shall not exceed the maximum rate authorized by the Bond
9 Authorization Act, payable semi-annually, computed to maturity
10 according to the standard table of bond values. The ordinance
11 shall fix the amount of the revenue bonds proposed to be
12 issued, the maturity or maturities, the interest rate, which
13 shall not exceed the maximum rate authorized by the Bond
14 Authorization Act, and all the details in connection with the
15 bonds. The ordinance may contain such covenants and
16 restrictions upon the issuance of additional revenue bonds
17 thereafter, which shall share equally in the revenue of the
18 District, as may be deemed necessary or advisable for the
19 assurance of the payment of the bonds first issued. The
20 District may also provide in the ordinance authorizing the
21 issuance of bonds under this Section that the bonds, or such
22 ones thereof may be specified, shall, to the extent and manner
23 prescribed, be subordinated and be junior in standing, with
24 respect to the payment of principal and interest and the
25 security thereof, to such other bonds as are designated in the
26 ordinance. The ordinance shall pledge the revenue derived from

1 the operations of the District for the cost of paying the cost
2 and operation of the District, and, as applicable, providing
3 adequate depreciation funds, and paying the principal of and
4 interest on the bonds of the District issued under this
5 Section.

6 Section 80. Fees and charges. The District may levy,
7 assess, and collect fees and charges for services as it deems
8 appropriate.

9 Section 85. Loans, grants, voluntary contributions and
10 appropriations. The District may accept loans, grants,
11 voluntary contributions, or appropriations of money or
12 materials or property of any kind from a federal or State
13 agency or officer, a unit of local government, or a private
14 person or entity.

15 Section 90. Revenue sharing. The District, member
16 villages, and county may share tax revenues subject to the
17 following restrictions:

18 (i) District-wide use and occupation taxes are not
19 subject to revenue sharing.

20 (ii) Funds generated by the existing rates of the
21 member villages and the county are not subject to revenue
22 sharing; and

23 (iii) Taxes imposed by other entities are not subject

1 to revenue sharing.

2 The member entities shall share certain revenue generated
3 within the District for new commercial and industrial
4 development occurring after the effective date of this
5 legislation. The amount of revenue subject to revenue sharing
6 is as follows: (i) one-half of the corporate ad valorem
7 property tax on new commercial and industrial development
8 within the District shall be shared among the member entities,
9 up to a limit of the first 0.2500 of the member entity's
10 corporate levy, and (ii) one-half of any new local sales tax
11 shall be shared among the member entities. The first half of
12 the revenue from new ad valorem property taxes on new
13 commercial and industrial development shall be retained by the
14 host community and the second half of this revenue shall be
15 distributed in one-sixth shares to the 6 member entities. The
16 first half of any new sales taxes within the District shall be
17 retained by the host community and the second half of this
18 revenue shall be distributed in one-sixth shares to the 6
19 member entities. Should any additional municipalities become
20 member villages, the distribution formula shall be amended to
21 provide for equal shares of shared revenue for each member
22 entity.

23 Existing and future ad valorem property tax proceeds for
24 all taxing bodies, except the member entities, shall remain
25 with the entity that assessed them.

26 Should a member entity offer an incentive for development

1 in the form of a tax rebate, the rebate shall not include funds
2 that are subject to revenue sharing unless the entity offering
3 the incentive reimburses the other member entity entitled to
4 receive revenue sharing for lost revenue, or the entitled
5 members waive their right to reimbursement for lost revenue as
6 evidenced by an intergovernmental agreement. Establishment of
7 any new or expanded Tax Increment Financing districts within
8 the District shall be subject to the revenue sharing
9 requirements and restrictions of this Act.

10 Section 95. Infrastructure improvements. The District does
11 not have independent authority to directly undertake
12 infrastructure improvements, such as roads and water and sewer
13 lines. However, the District may pass through funds it collects
14 under this Act to other entities, such as the Illinois
15 Department of Transportation, the county, townships, or
16 villages. These funds shall be used to undertake infrastructure
17 improvements, off-airport, according to a capital improvement
18 plan approved by the Board or upon a finding of a majority of
19 the Board that such improvements promote economic development
20 within the District, provide community services or amenities,
21 or help advance or realize other purposes for which the
22 District was created.

23 Section 100. Annexation. Property within the District that
24 is unincorporated on the effective date of this Act may be

1 annexed by a member village in accordance with State law;
2 however, the District shall continue to have review and
3 approval authority with respect to that property under Section
4 30.

5 Section 900. The Illinois Finance Authority Act is amended
6 by changing Section 820-50 as follows:

7 (20 ILCS 3501/820-50)

8 Sec. 820-50. Pledge of Funds by Units of Local Government.

9 (a) Pledge of Funds. Any unit of local government which
10 receives funds from the Department of Revenue, including
11 without limitation funds received pursuant to Sections 8-11-1,
12 8-11-1.4, 8-11-5 or 8-11-6 of the Illinois Municipal Code, the
13 Home Rule County Retailers' Occupation Tax Act, the Home Rule
14 County Service Occupation Tax Act, Sections 25.05-2, 25.05-3 or
15 25.05-10 of "An Act to revise the law in relation to counties",
16 Section 5.01 of the Local Mass Transit District Act, Section
17 4.03 of the Regional Transportation Authority Act, Sections 2
18 or 12 of the State Revenue Sharing Act, Section 60 of the
19 Regional Cooperation and Smart Growth in Eastern Will County
20 Act, or from the Department of Transportation pursuant to
21 Section 8 of the Motor Fuel Tax Law, or from the State
22 Superintendent of Education (directly or indirectly through
23 regional superintendents of schools) pursuant to Article 18 of
24 the School Code, or any unit of government which receives other

1 funds which are at any time in the custody of the State
2 Treasurer, the State Comptroller, the Department of Revenue,
3 the Department of Transportation or the State Superintendent of
4 Education may by appropriate proceedings, pledge to the
5 Authority or any entity acting on behalf of the Authority
6 (including, without limitation, any trustee), any or all of
7 such receipts to the extent that such receipts are necessary to
8 provide revenues to pay the principal of, premium, if any, and
9 interest on, and other fees related to, or to secure, any of
10 the local government securities of such unit of local
11 government which have been sold or delivered to the Authority
12 or its designee or to pay lease rental payments to be made by
13 such unit of local government to the extent that such lease
14 rental payments secure the payment of the principal of,
15 premium, if any, and interest on, and other fees related to,
16 any local government securities which have been sold or
17 delivered to the Authority or its designee. Any pledge of such
18 receipts (or any portion thereof) shall constitute a first and
19 prior lien thereon and shall be binding from the time the
20 pledge is made.

21 (b) Direct Payment of Pledged Receipts. Any such unit of
22 local government may, by such proceedings, direct that all or
23 any of such pledged receipts payable to such unit of local
24 government be paid directly to the Authority or such other
25 entity (including, without limitation, any trustee) for the
26 purpose of paying the principal of, premium, if any, and

1 interest on, and fees relating to, such local government
2 securities or for the purpose of paying such lease rental
3 payments to the extent necessary to pay the principal of,
4 premium, if any, and interest on, and other fees related to,
5 such local government securities secured by such lease rental
6 payments. Upon receipt of a certified copy of such proceedings
7 by the State Treasurer, the State Comptroller, the Department
8 of Revenue, the Department of Transportation or the State
9 Superintendent of Education, as the case may be, such
10 Department or State Superintendent shall direct the State
11 Comptroller and State Treasurer to pay to, or on behalf of, the
12 Authority or such other entity (including, without limitation,
13 any trustee) all or such portion of the pledged receipts from
14 the Department of Revenue, or the Department of Transportation
15 or the State Superintendent of Education (directly or
16 indirectly through regional superintendents of schools), as
17 the case may be, sufficient to pay the principal of and
18 premium, if any, and interest on, and other fees related to,
19 the local governmental securities for which the pledge was made
20 or to pay such lease rental payments securing such local
21 government securities for which the pledge was made. The
22 proceedings shall constitute authorization for such a
23 directive to the State Comptroller to cause orders to be drawn
24 and to the State Treasurer to pay in accordance with such
25 directive. To the extent that the Authority or its designee
26 notifies the Department of Revenue, the Department of

1 Transportation or the State Superintendent of Education, as the
2 case may be, that the unit of local government has previously
3 paid to the Authority or its designee the amount of any
4 principal, premium, interest and fees payable from such pledged
5 receipts, the State Comptroller shall cause orders to be drawn
6 and the State Treasurer shall pay such pledged receipts to the
7 unit of local government as if they were not pledged receipts.
8 To the extent that such receipts are pledged and paid to the
9 Authority or such other entity, any taxes which have been
10 levied or fees or charges assessed pursuant to law on account
11 of the issuance of such local government securities shall be
12 paid to the unit of local government and may be used for the
13 purposes for which the pledged receipts would have been used.

14 (c) Payment of Pledged Receipts upon Default. Any such unit
15 of local government may, by such proceedings, direct that such
16 pledged receipts payable to such unit of local government be
17 paid to the Authority or such other entity (including, without
18 limitation, any trustee) upon a default in the payment of any
19 principal of, premium, if any, or interest on, or fees relating
20 to, any of the local government securities of such unit of
21 local government which have been sold or delivered to the
22 Authority or its designee or any of the local government
23 securities which have been sold or delivered to the Authority
24 or its designee and which are secured by such lease rental
25 payments. If such local governmental security is in default as
26 to the payment of principal thereof, premium, if any, or

1 interest thereon, or fees relating thereto, to the extent that
2 the State Treasurer, the State Comptroller, the Department of
3 Revenue, the Department of Transportation or the State
4 Superintendent of Education (directly or indirectly through
5 regional superintendents of schools) shall be the custodian at
6 any time of any other available funds or moneys pledged to the
7 payment of such local government securities or such lease
8 rental payments securing such local government securities
9 pursuant to this Section and due or payable to such a unit of
10 local government at any time subsequent to written notice to
11 the State Comptroller and State Treasurer from the Authority or
12 any entity acting on behalf of the Authority (including,
13 without limitation, any trustee) to the effect that such unit
14 of local government has not paid or is in default as to payment
15 of the principal of, premium, if any, or interest on, or fees
16 relating to, any local government security sold or delivered to
17 the Authority or any such entity (including, without
18 limitation, any trustee) or has not paid or is in default as to
19 the payment of such lease rental payments securing the payment
20 of the principal of, premium, if any, or interest on, or other
21 fees relating to, any local government security sold or
22 delivered to the Authority or such other entity (including,
23 without limitation, any trustee):

24 (i) The State Comptroller and the State Treasurer shall
25 withhold the payment of such funds or moneys from such unit
26 of local government until the amount of such principal,

1 premium, if any, interest or fees then due and unpaid has
2 been paid to the Authority or any such entity (including,
3 without limitation, any trustee), or the State Comptroller
4 and the State Treasurer have been advised that
5 arrangements, satisfactory to the Authority or such
6 entity, have been made for the payment of such principal,
7 premium, if any, interest and fees; and

8 (ii) Within 10 days after a demand for payment by the
9 Authority or such entity given to such unit of local
10 government, the State Treasurer and the State Comptroller,
11 the State Treasurer shall pay such funds or moneys as are
12 legally available therefor to the Authority or such entity
13 for the payment of principal of, premium, if any, or
14 interest on, or fees relating to, such local government
15 securities. The Authority or any such entity may carry out
16 this Section and exercise all the rights, remedies and
17 provisions provided or referred to in this Section.

18 (d) Remedies. Upon the sale or delivery of any local
19 government securities of the Authority or its designee, the
20 local government which issued such local government securities
21 shall be deemed to have agreed that upon its failure to pay
22 interest or premium, if any, on, or principal of, or fees
23 relating to, the local government securities sold or delivered
24 to the Authority or any entity acting on behalf of the
25 Authority (including, without limitation, any trustee) when
26 payable, all statutory defenses to nonpayment are thereby

1 waived. Upon a default in payment of principal of or interest
2 on any local government securities issued by a unit of local
3 government and sold or delivered to the Authority or its
4 designee, and upon demand on the unit of local government for
5 payment, if the local government securities are payable from
6 property taxes and funds are not legally available in the
7 treasury of the unit of local government to make payment, an
8 action in mandamus for the levy of a tax by the unit of local
9 government to pay the principal of or interest on the local
10 government securities shall lie, and the Authority or such
11 entity shall be constituted a holder or owner of the local
12 government securities as being in default. Upon the occurrence
13 of any failure or default with respect to any local government
14 securities issued by a unit of local government, the Authority
15 or such entity may thereupon avail itself of all remedies,
16 rights and provisions of law applicable in the circumstances,
17 and the failure to exercise or exert any rights or remedies
18 within a time or period provided by law may not be raised as a
19 defense by the unit of local government.

20 (Source: P.A. 93-205, eff. 1-1-04.)

21 Section 905. The State Officers and Employees Money
22 Disposition Act is amended by changing Section 2a as follows:

23 (30 ILCS 230/2a) (from Ch. 127, par. 172)

24 Sec. 2a. Every officer, board, commission, commissioner,

1 department, institute, arm, or agency to whom or to which this
2 Act applies is to notify the State Treasurer as to money paid
3 to him, her, or it under protest as provided in Section 2a.1,
4 and the Treasurer is to place the money in a special fund to be
5 known as the protest fund. At the expiration of 30 days from
6 the date of payment, the money is to be transferred from the
7 protest fund to the appropriate fund in which it would have
8 been placed had there been payment without protest unless the
9 party making that payment under protest has filed a complaint
10 and secured within that 30 days a temporary restraining order
11 or a preliminary injunction, restraining the making of that
12 transfer and unless, in addition, within that 30 days, a copy
13 of the temporary restraining order or preliminary injunction
14 has been served upon the State Treasurer and also upon the
15 officer, board, commission, commissioner, department,
16 institute, arm, or agency to whom or to which the payment under
17 protest was made, in which case the payment and such other
18 payments as are subsequently made under notice of protest, as
19 provided in Section 2a.1, by the same person, the transfer of
20 which payments is restrained by such temporary restraining
21 order or preliminary injunction, are to be held in the protest
22 fund until the final order or judgment of the court. The
23 judicial remedy herein provided, however, relates only to
24 questions which must be decided by the court in determining the
25 proper disposition of the moneys paid under protest. Any
26 authorized payment from the protest fund shall bear simple

1 interest at a rate equal to the average of the weekly rates at
2 issuance on 13-week U.S. Treasury Bills from the date of
3 deposit into the protest fund to the date of disbursement from
4 the protest fund. In cases involving temporary restraining
5 orders or preliminary injunctions entered March 10, 1982, or
6 thereafter, pursuant to this Section, when the party paying
7 under protest fails in the protest action the State Treasurer
8 shall determine if any moneys paid under protest were paid as a
9 result of assessments under the following provisions: the
10 Municipal Retailers' Occupation Tax Act, the Municipal Service
11 Occupation Tax Act, the Municipal Use Tax Act, the Municipal
12 Automobile Renting Occupation Tax Act, the Municipal
13 Automobile Renting Use Tax Act, Section 8-11-9 of the Illinois
14 Municipal Code, the Tourism, Conventions and Other Special
15 Events Promotion Act of 1967, the County Automobile Renting
16 Occupation Tax Act, the County Automobile Renting Use Tax Act,
17 Section 5-1034 of the Counties Code, Section 5.01 of the Local
18 Mass Transit District Act, the Downstate Public Transportation
19 Act, Section 4.03 of the Regional Transportation Authority Act,
20 subsections (c) and (d) of Section 201 of the Illinois Income
21 Tax Act, Section 2a.1 of the Messages Tax Act, Section 2a.1 of
22 the Gas Revenue Tax Act, Section 2a.1 of the Public Utilities
23 Revenue Act, Section 60 of the Regional Cooperation and Smart
24 Growth in Eastern Will County Act, and the Water Company
25 Invested Capital Tax Act. Any such moneys paid under protest
26 shall bear simple interest at a rate equal to the average of

1 the weekly rates at issuance on 13-week U.S. Treasury Bills
2 from the date of deposit into the protest fund to the date of
3 disbursement from the protest fund.

4 It is unlawful for the Clerk of a court, a bank or any
5 person other than the State Treasurer to be appointed as
6 trustee with respect to any purported payment under protest, or
7 otherwise to be authorized by a court to hold any purported
8 payment under protest, during the pendency of the litigation
9 involving such purported payment under protest, it being the
10 expressed intention of the General Assembly that no one is to
11 act as custodian of any such purported payment under protest
12 except the State Treasurer.

13 No payment under protest within the meaning of this Act has
14 been made unless paid to an officer, board, commission,
15 commissioner, department, institute, arm or agency brought
16 within this Act by Section 1 and unless made in the form
17 specified by Section 2a.1. No payment into court or to a
18 circuit clerk or other court-appointed trustee is a payment
19 under protest within the meaning of this Act.

20 (Source: P.A. 87-950.)

21 Section 910. The Use Tax Act is amended by changing Section
22 22 as follows:

23 (35 ILCS 105/22) (from Ch. 120, par. 439.22)

24 Sec. 22. If it is determined that the Department should

1 issue a credit or refund under this Act, the Department may
2 first apply the amount thereof against any amount of tax or
3 penalty or interest due hereunder, or under the Retailers'
4 Occupation Tax Act, the Service Occupation Tax Act, the Service
5 Use Tax Act, any local occupation or use tax administered by
6 the Department, Section 4 of the Water Commission Act of 1985,
7 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
8 Transit District Act, Section 60 of the Regional Cooperation
9 and Smart Growth in Eastern Will County Act, or subsections
10 (e), (f) and (g) of Section 4.03 of the Regional Transportation
11 Authority Act, from the person entitled to such credit or
12 refund. For this purpose, if proceedings are pending to
13 determine whether or not any tax or penalty or interest is due
14 under this Act or under the Retailers' Occupation Tax Act, the
15 Service Occupation Tax Act, the Service Use Tax Act, any local
16 occupation or use tax administered by the Department, Section 4
17 of the Water Commission Act of 1985, subsections (b), (c) and
18 (d) of Section 5.01 of the Local Mass Transit District Act,
19 Section 60 of the Regional Cooperation and Smart Growth in
20 Eastern Will County Act, or subsections (e), (f) and (g) of
21 Section 4.03 of the Regional Transportation Authority Act, from
22 such person, the Department may withhold issuance of the credit
23 or refund pending the final disposition of such proceedings and
24 may apply such credit or refund against any amount found to be
25 due to the Department as a result of such proceedings. The
26 balance, if any, of the credit or refund shall be issued to the

1 person entitled thereto.

2 Any credit memorandum issued hereunder may be used by the
3 authorized holder thereof to pay any tax or penalty or interest
4 due or to become due under this Act or under the Retailers'
5 Occupation Tax Act, the Service Occupation Tax Act, the Service
6 Use Tax Act, any local occupation or use tax administered by
7 the Department, Section 4 of the Water Commission Act of 1985,
8 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
9 Transit District Act, Section 60 of the Regional Cooperation
10 and Smart Growth in Eastern Will County Act, or subsections
11 (e), (f) and (g) of Section 4.03 of the Regional Transportation
12 Authority Act, from such holder. Subject to reasonable rules of
13 the Department, a credit memorandum issued hereunder may be
14 assigned by the holder thereof to any other person for use in
15 paying tax or penalty or interest which may be due or become
16 due under this Act or under the Retailers' Occupation Tax Act,
17 the Service Occupation Tax Act or the Service Use Tax Act, from
18 the assignee.

19 In any case in which there has been an erroneous refund of
20 tax payable under this Act, a notice of tax liability may be
21 issued at any time within 3 years from the making of that
22 refund, or within 5 years from the making of that refund if it
23 appears that any part of the refund was induced by fraud or the
24 misrepresentation of a material fact. The amount of any
25 proposed assessment set forth in the notice shall be limited to
26 the amount of the erroneous refund.

1 (Source: P.A. 91-901, eff. 1-1-01.)

2 Section 915. The Service Use Tax Act is amended by changing
3 Section 20 as follows:

4 (35 ILCS 110/20) (from Ch. 120, par. 439.50)

5 Sec. 20. If it is determined that the Department should
6 issue a credit or refund hereunder, the Department may first
7 apply the amount thereof against any amount of tax or penalty
8 or interest due hereunder, or under the Service Occupation Tax
9 Act, the Retailers' Occupation Tax Act, the Use Tax Act, any
10 local occupation or use tax administered by the Department,
11 Section 4 of the Water Commission Act of 1985, subsections (b),
12 (c) and (d) of Section 5.01 of the Local Mass Transit District
13 Act, Section 60 of the Regional Cooperation and Smart Growth in
14 Eastern Will County Act, or subsections (e), (f) and (g) of
15 Section 4.03 of the Regional Transportation Authority Act, from
16 the person entitled to such credit or refund. For this purpose,
17 if proceedings are pending to determine whether or not any tax
18 or penalty or interest is due hereunder, or under the Service
19 Occupation Tax Act, the Retailers' Occupation Tax Act, the Use
20 Tax Act, any local occupation or use tax administered by the
21 Department, Section 4 of the Water Commission Act of 1985,
22 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
23 Transit District Act, Section 60 of the Regional Cooperation
24 and Smart Growth in Eastern Will County Act, or subsections

1 (e), (f) and (g) of Section 4.03 of the Regional Transportation
2 Authority Act, from such person, the Department may withhold
3 issuance of the credit or refund pending the final disposition
4 of such proceedings and may apply such credit or refund against
5 any amount found to be due to the Department as a result of
6 such proceedings. The balance, if any, of the credit or refund
7 shall be issued to the person entitled thereto.

8 Any credit memorandum issued hereunder may be used by the
9 authorized holder thereof to pay any tax or penalty or interest
10 due or to become due under this Act, the Service Occupation Tax
11 Act, the Retailers' Occupation Tax Act, the Use Tax Act, any
12 local occupation or use tax administered by the Department,
13 Section 4 of the Water Commission Act of 1985, subsections (b),
14 (c) and (d) of Section 5.01 of the Local Mass Transit District
15 Act, Section 60 of the Regional Cooperation and Smart Growth in
16 Eastern Will County Act, or subsections (e), (f) and (g) of
17 Section 4.03 of the Regional Transportation Authority Act, from
18 such holder. Subject to reasonable rules of the Department, a
19 credit memorandum issued hereunder may be assigned by the
20 holder thereof to any other person for use in paying tax or
21 penalty or interest which may be due or become due under this
22 Act, the Service Occupation Tax Act, the Retailers' Occupation
23 Tax Act, the Use Tax Act, any local occupation or use tax
24 administered by the Department, Section 4 of the Water
25 Commission Act of 1985, subsections (b), (c) and (d) of Section
26 5.01 of the Local Mass Transit District Act, Section 60 of the

1 Regional Cooperation and Smart Growth in Eastern Will County
2 Act, or subsections (e), (f) and (g) of Section 4.03 of the
3 Regional Transportation Authority Act, from the assignee.

4 In any case which there has been an erroneous refund of tax
5 payable under this Act, a notice of tax liability may be issued
6 at any time within 3 years from the making of that refund, or
7 within 5 years from the making of that refund if it appears
8 that any part of the refund was induced by fraud or the
9 misrepresentation of a material fact. The amount of any
10 proposed assessment set forth in the notice shall be limited to
11 the amount of the erroneous refund.

12 (Source: P.A. 91-901, eff. 1-1-01.)

13 Section 920. The Service Occupation Tax Act is amended by
14 changing Section 20 as follows:

15 (35 ILCS 115/20) (from Ch. 120, par. 439.120)

16 Sec. 20. If it is determined that the Department should
17 issue a credit or refund hereunder, the Department may first
18 apply the amount thereof against any amount of tax or penalty
19 or interest due hereunder, or under the Service Use Tax Act,
20 the Retailers' Occupation Tax Act, the Use Tax Act, any local
21 occupation or use tax administered by the Department, Section 4
22 of the Water Commission Act of 1985, subsections (b), (c) and
23 (d) of Section 5.01 of the Local Mass Transit District Act,
24 Section 60 of the Regional Cooperation and Smart Growth in

1 Eastern Will County Act, or subsections (e), (f) and (g) of
2 Section 4.03 of the Regional Transportation Authority Act, from
3 the person entitled to such credit or refund. For this purpose,
4 if proceedings are pending to determine whether or not any tax
5 or penalty or interest is due hereunder, or under the Service
6 Use Tax Act, the Retailers' Occupation Tax Act, the Use Tax
7 Act, any local occupation or use tax administered by the
8 Department, Section 4 of the Water Commission Act of 1985,
9 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
10 Transit District Act, Section 60 of the Regional Cooperation
11 and Smart Growth in Eastern Will County Act, or subsections
12 (e), (f) and (g) of Section 4.03 of the Regional Transportation
13 Authority Act, from such person, the Department may withhold
14 issuance of the credit or refund pending the final disposition
15 of such proceedings and may apply such credit or refund against
16 any amount found to be due to the Department as a result of
17 such proceedings. The balance, if any, of the credit or refund
18 shall be issued to the person entitled thereto.

19 Any credit memorandum issued hereunder may be used by the
20 authorized holder thereof to pay any tax or penalty or interest
21 due or to become due under this Act, or under the Service Use
22 Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act,
23 any local occupation or use tax administered by the Department,
24 Section 4 of the Water Commission Act of 1985, subsections (b),
25 (c) and (d) of Section 5.01 of the Local Mass Transit District
26 Act, Section 60 of the Regional Cooperation and Smart Growth in

1 Eastern Will County Act, or subsections (e), (f) and (g) of
2 Section 4.03 of the Regional Transportation Authority Act, from
3 such holder. Subject to reasonable rules of the Department, a
4 credit memorandum issued hereunder may be assigned by the
5 holder thereof to any other person for use in paying tax or
6 penalty or interest which may be due or become due under this
7 Act, the Service Use Tax Act, the Retailers' Occupation Tax
8 Act, the Use Tax Act, any local occupation or use tax
9 administered by the Department, Section 4 of the Water
10 Commission Act of 1985, subsections (b), (c) and (d) of Section
11 5.01 of the Local Mass Transit District Act, Section 60 of the
12 Regional Cooperation and Smart Growth in Eastern Will County
13 Act, or subsections (e), (f) and (g) of Section 4.03 of the
14 Regional Transportation Authority Act, from the assignee.

15 In any case in which there has been an erroneous refund of
16 tax payable under this Act, a notice of tax liability may be
17 issued at any time within 3 years from the making of that
18 refund, or within 5 years from the making of that refund if it
19 appears that any part of the refund was induced by fraud or the
20 misrepresentation of a material fact. The amount of any
21 proposed assessment set forth in the notice shall be limited to
22 the amount of the erroneous refund.

23 (Source: P.A. 91-901, eff. 1-1-01.)

24 Section 925. The Retailers' Occupation Tax Act is amended
25 by changing Section 6 as follows:

1 (35 ILCS 120/6) (from Ch. 120, par. 445)

2 Sec. 6. Credit memorandum or refund. If it appears, after
3 claim therefor filed with the Department, that an amount of tax
4 or penalty or interest has been paid which was not due under
5 this Act, whether as the result of a mistake of fact or an
6 error of law, except as hereinafter provided, then the
7 Department shall issue a credit memorandum or refund to the
8 person who made the erroneous payment or, if that person died
9 or became a person under legal disability, to his or her legal
10 representative, as such. For purposes of this Section, the tax
11 is deemed to be erroneously paid by a retailer when the
12 manufacturer of a motor vehicle sold by the retailer accepts
13 the return of that automobile and refunds to the purchaser the
14 selling price of that vehicle as provided in the New Vehicle
15 Buyer Protection Act. When a motor vehicle is returned for a
16 refund of the purchase price under the New Vehicle Buyer
17 Protection Act, the Department shall issue a credit memorandum
18 or a refund for the amount of tax paid by the retailer under
19 this Act attributable to the initial sale of that vehicle.
20 Claims submitted by the retailer are subject to the same
21 restrictions and procedures provided for in this Act. If it is
22 determined that the Department should issue a credit memorandum
23 or refund, the Department may first apply the amount thereof
24 against any tax or penalty or interest due or to become due
25 under this Act or under the Use Tax Act, the Service Occupation

1 Tax Act, the Service Use Tax Act, any local occupation or use
2 tax administered by the Department, Section 4 of the Water
3 Commission Act of 1985, subsections (b), (c) and (d) of Section
4 5.01 of the Local Mass Transit District Act, Section 60 of the
5 Regional Cooperation and Smart Growth in Eastern Will County
6 Act, or subsections (e), (f) and (g) of Section 4.03 of the
7 Regional Transportation Authority Act, from the person who made
8 the erroneous payment. If no tax or penalty or interest is due
9 and no proceeding is pending to determine whether such person
10 is indebted to the Department for tax or penalty or interest,
11 the credit memorandum or refund shall be issued to the
12 claimant; or (in the case of a credit memorandum) the credit
13 memorandum may be assigned and set over by the lawful holder
14 thereof, subject to reasonable rules of the Department, to any
15 other person who is subject to this Act, the Use Tax Act, the
16 Service Occupation Tax Act, the Service Use Tax Act, any local
17 occupation or use tax administered by the Department, Section 4
18 of the Water Commission Act of 1985, subsections (b), (c) and
19 (d) of Section 5.01 of the Local Mass Transit District Act,
20 Section 60 of the Regional Cooperation and Smart Growth in
21 Eastern Will County Act, or subsections (e), (f) and (g) of
22 Section 4.03 of the Regional Transportation Authority Act, and
23 the amount thereof applied by the Department against any tax or
24 penalty or interest due or to become due under this Act or
25 under the Use Tax Act, the Service Occupation Tax Act, the
26 Service Use Tax Act, any local occupation or use tax

1 administered by the Department, Section 4 of the Water
2 Commission Act of 1985, subsections (b), (c) and (d) of Section
3 5.01 of the Local Mass Transit District Act, Section 60 of the
4 Regional Cooperation and Smart Growth in Eastern Will County
5 Act, or subsections (e), (f) and (g) of Section 4.03 of the
6 Regional Transportation Authority Act, from such assignee.
7 However, as to any claim for credit or refund filed with the
8 Department on and after each January 1 and July 1 no amount of
9 tax or penalty or interest erroneously paid (either in total or
10 partial liquidation of a tax or penalty or amount of interest
11 under this Act) more than 3 years prior to such January 1 and
12 July 1, respectively, shall be credited or refunded, except
13 that if both the Department and the taxpayer have agreed to an
14 extension of time to issue a notice of tax liability as
15 provided in Section 4 of this Act, such claim may be filed at
16 any time prior to the expiration of the period agreed upon.

17 No claim may be allowed for any amount paid to the
18 Department, whether paid voluntarily or involuntarily, if paid
19 in total or partial liquidation of an assessment which had
20 become final before the claim for credit or refund to recover
21 the amount so paid is filed with the Department, or if paid in
22 total or partial liquidation of a judgment or order of court.
23 No credit may be allowed or refund made for any amount paid by
24 or collected from any claimant unless it appears (a) that the
25 claimant bore the burden of such amount and has not been
26 relieved thereof nor reimbursed therefor and has not shifted

1 such burden directly or indirectly through inclusion of such
2 amount in the price of the tangible personal property sold by
3 him or her or in any manner whatsoever; and that no
4 understanding or agreement, written or oral, exists whereby he
5 or she or his or her legal representative may be relieved of
6 the burden of such amount, be reimbursed therefor or may shift
7 the burden thereof; or (b) that he or she or his or her legal
8 representative has repaid unconditionally such amount to his or
9 her vendee (1) who bore the burden thereof and has not shifted
10 such burden directly or indirectly, in any manner whatsoever;
11 (2) who, if he or she has shifted such burden, has repaid
12 unconditionally such amount to his own vendee; and (3) who is
13 not entitled to receive any reimbursement therefor from any
14 other source than from his or her vendor, nor to be relieved of
15 such burden in any manner whatsoever. No credit may be allowed
16 or refund made for any amount paid by or collected from any
17 claimant unless it appears that the claimant has
18 unconditionally repaid, to the purchaser, any amount collected
19 from the purchaser and retained by the claimant with respect to
20 the same transaction under the Use Tax Act.

21 Any credit or refund that is allowed under this Section
22 shall bear interest at the rate and in the manner specified in
23 the Uniform Penalty and Interest Act.

24 In case the Department determines that the claimant is
25 entitled to a refund, such refund shall be made only from such
26 appropriation as may be available for that purpose. If it

1 appears unlikely that the amount appropriated would permit
2 everyone having a claim allowed during the period covered by
3 such appropriation to elect to receive a cash refund, the
4 Department, by rule or regulation, shall provide for the
5 payment of refunds in hardship cases and shall define what
6 types of cases qualify as hardship cases.

7 If a retailer who has failed to pay retailers' occupation
8 tax on gross receipts from retail sales is required by the
9 Department to pay such tax, such retailer, without filing any
10 formal claim with the Department, shall be allowed to take
11 credit against such retailers' occupation tax liability to the
12 extent, if any, to which such retailer has paid an amount
13 equivalent to retailers' occupation tax or has paid use tax in
14 error to his or her vendor or vendors of the same tangible
15 personal property which such retailer bought for resale and did
16 not first use before selling it, and no penalty or interest
17 shall be charged to such retailer on the amount of such credit.
18 However, when such credit is allowed to the retailer by the
19 Department, the vendor is precluded from refunding any of that
20 tax to the retailer and filing a claim for credit or refund
21 with respect thereto with the Department. The provisions of
22 this amendatory Act shall be applied retroactively, regardless
23 of the date of the transaction.

24 (Source: P.A. 91-901, eff. 1-1-01.)

25 Section 930. The State Mandates Act is amended by adding

1 Section 8.36 as follows:

2 (30 ILCS 805/8.36 new)

3 Sec. 8.36. Exempt mandate. Notwithstanding Sections 6 and 8
4 of this Act, no reimbursement by the State is required for the
5 implementation of any mandate created by this amendatory Act of
6 the 97th General Assembly.

7 Section 990. Severability; construction. The provisions of
8 this Act are severable under Section 1.31 of the Statute on
9 Statutes. The provisions of this Act shall be reasonably and
10 liberally construed to achieve the purposes for the
11 establishment of the Eastern Will County Development District.

12 Section 999. Effective date. This Act takes effect January
13 1, 2013.".