



Sen. John M. Sullivan

Filed: 5/13/2015

09900HB0220sam003

LRB099 03556 HLH 35541 a

1 AMENDMENT TO HOUSE BILL 220

2 AMENDMENT NO. _____. Amend House Bill 220 by inserting the
3 following immediately below the enacting clause:

4 "Section 3. The Counties Code is amended by changing
5 Section 5-1006.5 as follows:

6 (55 ILCS 5/5-1006.5)

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

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

1 to the electors of that county and approved by a majority of
2 those voting on the question. If imposed, this tax shall be
3 imposed only in one-quarter percent increments. By resolution,
4 the county board may order the proposition to be submitted at
5 any election. If the tax is imposed for transportation purposes
6 for expenditures for public highways or as authorized under the
7 Illinois Highway Code, the county board must publish notice of
8 the existence of its long-range highway transportation plan as
9 required or described in Section 5-301 of the Illinois Highway
10 Code and must make the plan publicly available prior to
11 approval of the ordinance or resolution imposing the tax. If
12 the tax is imposed for transportation purposes for expenditures
13 for passenger rail transportation, the county board must
14 publish notice of the existence of its long-range passenger
15 rail transportation plan and must make the plan publicly
16 available prior to approval of the ordinance or resolution
17 imposing the tax.

18 If a tax is imposed for public facilities purposes, then
19 the name of the project may be included in the proposition at
20 the discretion of the county board as determined in the
21 enabling resolution. For example, the "XXX Nursing Home" or the
22 "YYY Museum".

23 The county clerk shall certify the question to the proper
24 election authority, who shall submit the proposition at an
25 election in accordance with the general election law.

26 (1) The proposition for public safety purposes shall be

1 in substantially the following form:

2 "To pay for public safety purposes, shall (name of
3 county) be authorized to impose an increase on its share of
4 local sales taxes by (insert rate)?"

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

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

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

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

20 As additional information on the ballot below the
21 question shall appear the following:

22 "This would mean that a consumer would pay an
23 additional (insert amount) in sales tax for every \$100 of
24 tangible personal property bought at retail. If imposed,
25 the additional tax would cease being collected at the end
26 of (insert number of years), if not terminated earlier by a

1 vote of the county board."

2 For the purposes of the paragraph, "public safety
3 purposes" means crime prevention, detention, fire
4 fighting, police, medical, ambulance, or other emergency
5 services.

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

7 Beginning on the January 1 or July 1, whichever is first,
8 that occurs not less than 30 days after the effective date of
9 this amendatory Act of the 99th General Assembly, Adams County
10 may impose a public safety retailers' occupation tax and
11 service occupation tax at the rate of 0.25%, as provided in the
12 referendum approved by the voters on April 7, 2015,
13 notwithstanding the omission of the additional information
14 that is otherwise required to be printed on the ballot below
15 the question pursuant to this item (1).

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

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

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

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

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

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

11 As additional information on the ballot below the
12 question shall appear the following:

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

19 For the purposes of this paragraph, transportation
20 purposes means construction, maintenance, operation, and
21 improvement of public highways, any other purpose for which
22 a county may expend funds under the Illinois Highway Code,
23 and passenger rail transportation.

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

25 (3) The proposition for public facilities purposes
26 shall be in substantially the following form:

1 "To pay for public facilities purposes, shall (name of
2 county) be authorized to impose an increase on its share of
3 local sales taxes by (insert rate)?"

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

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

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

15 "To pay for public facilities purposes, shall (name of
16 county) be authorized to impose an increase on its share of
17 local sales taxes by (insert rate) for a period not to
18 exceed (insert number of years)?"

19 As additional information on the ballot below the
20 question shall appear the following:

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

1 For purposes of this Section, "public facilities
2 purposes" means the acquisition, development,
3 construction, reconstruction, rehabilitation, improvement,
4 financing, architectural planning, and installation of
5 capital facilities consisting of buildings, structures,
6 and durable equipment and for the acquisition and
7 improvement of real property and interest in real property
8 required, or expected to be required, in connection with
9 the public facilities, for use by the county for the
10 furnishing of governmental services to its citizens,
11 including but not limited to museums and nursing homes.

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

13 If a majority of the electors voting on the proposition
14 vote in favor of it, the county may impose the tax. A county
15 may not submit more than one proposition authorized by this
16 Section to the electors at any one time.

17 This additional tax may not be imposed on the sales of food
18 for human consumption that is to be consumed off the premises
19 where it is sold (other than alcoholic beverages, soft drinks,
20 and food which has been prepared for immediate consumption) and
21 prescription and non-prescription medicines, drugs, medical
22 appliances and insulin, urine testing materials, syringes, and
23 needles used by diabetics. The tax imposed by a county under
24 this Section and all civil penalties that may be assessed as an
25 incident of the tax shall be collected and enforced by the
26 Illinois Department of Revenue and deposited into a special

1 fund created for that purpose. The certificate of registration
2 that is issued by the Department to a retailer under the
3 Retailers' Occupation Tax Act shall permit the retailer to
4 engage in a business that is taxable without registering
5 separately with the Department under an ordinance or resolution
6 under this Section. The Department has full power to administer
7 and enforce this Section, to collect all taxes and penalties
8 due under this Section, to dispose of taxes and penalties so
9 collected in the manner provided in this Section, and to
10 determine all rights to credit memoranda arising on account of
11 the erroneous payment of a tax or penalty under this Section.
12 In the administration of and compliance with this Section, the
13 Department and persons who are subject to this Section shall
14 (i) have the same rights, remedies, privileges, immunities,
15 powers, and duties, (ii) be subject to the same conditions,
16 restrictions, limitations, penalties, and definitions of
17 terms, and (iii) employ the same modes of procedure as are
18 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
19 1n, 2 through 2-70 (in respect to all provisions contained in
20 those Sections other than the State rate of tax), 2a, 2b, 2c, 3
21 (except provisions relating to transaction returns and quarter
22 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
23 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of
24 the Retailers' Occupation Tax Act and Section 3-7 of the
25 Uniform Penalty and Interest Act as if those provisions were
26 set forth in this Section.

1 Persons subject to any tax imposed under the authority
2 granted in this Section may reimburse themselves for their
3 sellers' tax liability by separately stating the tax as an
4 additional charge, which charge may be stated in combination,
5 in a single amount, with State tax which sellers are required
6 to collect under the Use Tax Act, pursuant to such bracketed
7 schedules as the Department may prescribe.

8 Whenever the Department determines that a refund should be
9 made under this Section to a claimant instead of issuing a
10 credit memorandum, the Department shall notify the State
11 Comptroller, who shall cause the order to be drawn for the
12 amount specified and to the person named in the notification
13 from the Department. The refund shall be paid by the State
14 Treasurer out of the County Public Safety or Transportation
15 Retailers' Occupation Tax Fund.

16 (b) If a tax has been imposed under subsection (a), a
17 service occupation tax shall also be imposed at the same rate
18 upon all persons engaged, in the county, in the business of
19 making sales of service, who, as an incident to making those
20 sales of service, transfer tangible personal property within
21 the county as an incident to a sale of service. This tax may
22 not be imposed on sales of food for human consumption that is
23 to be consumed off the premises where it is sold (other than
24 alcoholic beverages, soft drinks, and food prepared for
25 immediate consumption) and prescription and non-prescription
26 medicines, drugs, medical appliances and insulin, urine

1 testing materials, syringes, and needles used by diabetics. The
2 tax imposed under this subsection and all civil penalties that
3 may be assessed as an incident thereof shall be collected and
4 enforced by the Department of Revenue. The Department has full
5 power to administer and enforce this subsection; to collect all
6 taxes and penalties due hereunder; to dispose of taxes and
7 penalties so collected in the manner hereinafter provided; and
8 to determine all rights to credit memoranda arising on account
9 of the erroneous payment of tax or penalty hereunder. In the
10 administration of, and compliance with this subsection, the
11 Department and persons who are subject to this paragraph shall
12 (i) have the same rights, remedies, privileges, immunities,
13 powers, and duties, (ii) be subject to the same conditions,
14 restrictions, limitations, penalties, exclusions, exemptions,
15 and definitions of terms, and (iii) employ the same modes of
16 procedure as are prescribed in Sections 2 (except that the
17 reference to State in the definition of supplier maintaining a
18 place of business in this State shall mean the county), 2a, 2b,
19 2c, 3 through 3-50 (in respect to all provisions therein other
20 than the State rate of tax), 4 (except that the reference to
21 the State shall be to the county), 5, 7, 8 (except that the
22 jurisdiction to which the tax shall be a debt to the extent
23 indicated in that Section 8 shall be the county), 9 (except as
24 to the disposition of taxes and penalties collected), 10, 11,
25 12 (except the reference therein to Section 2b of the
26 Retailers' Occupation Tax Act), 13 (except that any reference

1 to the State shall mean the county), Section 15, 16, 17, 18, 19
2 and 20 of the Service Occupation Tax Act and Section 3-7 of the
3 Uniform Penalty and Interest Act, as fully as if those
4 provisions were set forth herein.

5 Persons subject to any tax imposed under the authority
6 granted in this subsection may reimburse themselves for their
7 serviceman's tax liability by separately stating the tax as an
8 additional charge, which charge may be stated in combination,
9 in a single amount, with State tax that servicemen are
10 authorized to collect under the Service Use Tax Act, in
11 accordance with such bracket schedules as the Department may
12 prescribe.

13 Whenever the Department determines that a refund should be
14 made under this subsection to a claimant instead of issuing a
15 credit memorandum, the Department shall notify the State
16 Comptroller, who shall cause the warrant to be drawn for the
17 amount specified, and to the person named, in the notification
18 from the Department. The refund shall be paid by the State
19 Treasurer out of the County Public Safety or Transportation
20 Retailers' Occupation Fund.

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

25 (c) The Department shall immediately pay over to the State
26 Treasurer, ex officio, as trustee, all taxes and penalties

1 collected under this Section to be deposited into the County
2 Public Safety or Transportation Retailers' Occupation Tax
3 Fund, which shall be an unappropriated trust fund held outside
4 of the State treasury.

5 As soon as possible after the first day of each month,
6 beginning January 1, 2011, upon certification of the Department
7 of Revenue, the Comptroller shall order transferred, and the
8 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
9 local sales tax increment, as defined in the Innovation
10 Development and Economy Act, collected under this Section
11 during the second preceding calendar month for sales within a
12 STAR bond district.

13 After the monthly transfer to the STAR Bonds Revenue Fund,
14 on or before the 25th day of each calendar month, the
15 Department shall prepare and certify to the Comptroller the
16 disbursement of stated sums of money to the counties from which
17 retailers have paid taxes or penalties to the Department during
18 the second preceding calendar month. The amount to be paid to
19 each county, and deposited by the county into its special fund
20 created for the purposes of this Section, shall be the amount
21 (not including credit memoranda) collected under this Section
22 during the second preceding calendar month by the Department
23 plus an amount the Department determines is necessary to offset
24 any amounts that were erroneously paid to a different taxing
25 body, and not including (i) an amount equal to the amount of
26 refunds made during the second preceding calendar month by the

1 Department on behalf of the county, (ii) any amount that the
2 Department determines is necessary to offset any amounts that
3 were payable to a different taxing body but were erroneously
4 paid to the county, and (iii) any amounts that are transferred
5 to the STAR Bonds Revenue Fund. Within 10 days after receipt by
6 the Comptroller of the disbursement certification to the
7 counties provided for in this Section to be given to the
8 Comptroller by the Department, the Comptroller shall cause the
9 orders to be drawn for the respective amounts in accordance
10 with directions contained in the certification.

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

26 A county may direct, by ordinance, that all or a portion of

1 the taxes and penalties collected under the Special County
2 Retailers' Occupation Tax For Public Safety or Transportation
3 be deposited into the Transportation Development Partnership
4 Trust Fund.

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

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

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

24 (f) Beginning April 1, 1998 and through December 31, 2013,
25 the results of any election authorizing a proposition to impose
26 a tax under this Section or effecting a change in the rate of

1 tax, or any ordinance lowering the rate or discontinuing the
2 tax, shall be certified by the county clerk and filed with the
3 Illinois Department of Revenue either (i) on or before the
4 first day of April, whereupon the Department shall proceed to
5 administer and enforce the tax as of the first day of July next
6 following the filing; or (ii) on or before the first day of
7 October, whereupon the Department shall proceed to administer
8 and enforce the tax as of the first day of January next
9 following the filing.

10 Beginning January 1, 2014, the results of any election
11 authorizing a proposition to impose a tax under this Section or
12 effecting an increase in the rate of tax, along with the
13 ordinance adopted to impose the tax or increase the rate of the
14 tax, or any ordinance adopted to lower the rate or discontinue
15 the tax, shall be certified by the county clerk and filed with
16 the Illinois Department of Revenue either (i) on or before the
17 first day of May, whereupon the Department shall proceed to
18 administer and enforce the tax as of the first day of July next
19 following the adoption and filing; or (ii) on or before the
20 first day of October, whereupon the Department shall proceed to
21 administer and enforce the tax as of the first day of January
22 next following the adoption and filing.

23 (g) When certifying the amount of a monthly disbursement to
24 a county under this Section, the Department shall increase or
25 decrease the amounts by an amount necessary to offset any
26 miscalculation of previous disbursements. The offset amount

1 shall be the amount erroneously disbursed within the previous 6
2 months from the time a miscalculation is discovered.

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

6 (i) For purposes of this Section, "public safety" includes,
7 but is not limited to, crime prevention, detention, fire
8 fighting, police, medical, ambulance, or other emergency
9 services. The county may share tax proceeds received under this
10 Section for public safety purposes, including proceeds
11 received before August 4, 2009 (the effective date of Public
12 Act 96-124), with any fire protection district located in the
13 county. For the purposes of this Section, "transportation"
14 includes, but is not limited to, the construction, maintenance,
15 operation, and improvement of public highways, any other
16 purpose for which a county may expend funds under the Illinois
17 Highway Code, and passenger rail transportation. For the
18 purposes of this Section, "public facilities purposes"
19 includes, but is not limited to, the acquisition, development,
20 construction, reconstruction, rehabilitation, improvement,
21 financing, architectural planning, and installation of capital
22 facilities consisting of buildings, structures, and durable
23 equipment and for the acquisition and improvement of real
24 property and interest in real property required, or expected to
25 be required, in connection with the public facilities, for use
26 by the county for the furnishing of governmental services to

1 its citizens, including but not limited to museums and nursing
2 homes.

3 (j) The Department may promulgate rules to implement Public
4 Act 95-1002 only to the extent necessary to apply the existing
5 rules for the Special County Retailers' Occupation Tax for
6 Public Safety to this new purpose for public facilities.

7 (Source: P.A. 98-584, eff. 8-27-13.)".