



Rep. Daniel V. Beiser

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LRB099 04543 AWJ 39327 a

1 AMENDMENT TO HOUSE BILL 742

2 AMENDMENT NO. _____. Amend House Bill 742 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Flood Prevention District Act is amended by
5 changing Section 25 as follows:

6 (70 ILCS 750/25)

7 Sec. 25. Flood prevention retailers' and service
8 occupation taxes.

9 (a) If the Board of Commissioners of a flood prevention
10 district determines that an emergency situation exists
11 regarding levee repair or flood prevention, and upon an
12 ordinance confirming the determination adopted by the
13 affirmative vote of a majority of the members of the county
14 board of the county in which the district is situated, the
15 county may impose a flood prevention retailers' occupation tax
16 upon all persons engaged in the business of selling tangible

1 personal property at retail within the territory of the
2 district to provide revenue to pay the costs of providing
3 emergency levee repair and flood prevention and to secure the
4 payment of bonds, notes, and other evidences of indebtedness
5 issued under this Act for a period not to exceed the later of
6 (i) 25 years or (ii) if bonds, notes or other evidences of
7 indebtedness are issued under this Act, for as long as required
8 to repay the bonds, notes, and other evidences of indebtedness
9 issued under this Act. The tax rate shall be 0.25% of the gross
10 receipts from all taxable sales made in the course of that
11 business. The tax imposed under this Section and all civil
12 penalties that may be assessed as an incident thereof shall be
13 collected and enforced by the State Department of Revenue. The
14 Department shall have full power to administer and enforce this
15 Section; to collect all taxes and penalties so collected in the
16 manner hereinafter provided; and to determine all rights to
17 credit memoranda arising on account of the erroneous payment of
18 tax or penalty hereunder.

19 In the administration of and compliance with this
20 subsection, the Department and persons who are subject to this
21 subsection (i) have the same rights, remedies, privileges,
22 immunities, powers, and duties, (ii) are subject to the same
23 conditions, restrictions, limitations, penalties, and
24 definitions of terms, and (iii) shall employ the same modes of
25 procedure as are set forth in Sections 1 through 10, 2 through
26 2-70 (in respect to all provisions contained in those Sections

1 other than the State rate of tax), 2a through 2h, 3 (except as
2 to the disposition of taxes and penalties collected), 4, 5, 5a,
3 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10,
4 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act and
5 all provisions of the Uniform Penalty and Interest Act as if
6 those provisions were set forth in this subsection.

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

14 If a tax is imposed under this subsection (a), a tax shall
15 also be imposed under subsection (b) of this Section.

16 (b) If a tax has been imposed under subsection (a), a flood
17 prevention service occupation tax shall also be imposed upon
18 all persons engaged within the territory of the district in the
19 business of making sales of service, who, as an incident to
20 making the sales of service, transfer tangible personal
21 property, either in the form of tangible personal property or
22 in the form of real estate as an incident to a sale of service
23 to provide revenue to pay the costs of providing emergency
24 levee repair and flood prevention and to secure the payment of
25 bonds, notes, and other evidences of indebtedness issued under
26 this Act for a period not to exceed the later of (i) 25 years or

1 (ii) if bonds, notes or other evidences of indebtedness are
2 issued under this Act, for as long as required to repay the
3 bonds, notes, and other evidences of indebtedness issued under
4 this Act. The tax rate shall be 0.25% of the selling price of
5 all tangible personal property transferred.

6 The tax imposed under this subsection and all civil
7 penalties that may be assessed as an incident thereof shall be
8 collected and enforced by the State Department of Revenue. The
9 Department shall have full power to administer and enforce this
10 subsection; to collect all taxes and penalties due hereunder;
11 to dispose of taxes and penalties collected in the manner
12 hereinafter provided; and to determine all rights to credit
13 memoranda arising on account of the erroneous payment of tax or
14 penalty hereunder.

15 In the administration of and compliance with this
16 subsection, the Department and persons who are subject to this
17 subsection shall (i) have the same rights, remedies,
18 privileges, immunities, powers, and duties, (ii) be subject to
19 the same conditions, restrictions, limitations, penalties, and
20 definitions of terms, and (iii) employ the same modes of
21 procedure as are set forth in Sections 2 (except that the
22 reference to State in the definition of supplier maintaining a
23 place of business in this State means the district), 2a through
24 2d, 3 through 3-50 (in respect to all provisions contained in
25 those Sections other than the State rate of tax), 4 (except
26 that the reference to the State shall be to the district), 5,

1 7, 8 (except that the jurisdiction to which the tax is a debt
2 to the extent indicated in that Section 8 is the district), 9
3 (except as to the disposition of taxes and penalties
4 collected), 10, 11, 12 (except the reference therein to Section
5 2b of the Retailers' Occupation Tax Act), 13 (except that any
6 reference to the State means the district), Section 15, 16, 17,
7 18, 19, and 20 of the Service Occupation Tax Act and all
8 provisions of the Uniform Penalty and Interest Act, as fully as
9 if those provisions were set forth herein.

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

17 (c) The taxes imposed in subsections (a) and (b) may not be
18 imposed on personal property titled or registered with an
19 agency of the State; food for human consumption that is to be
20 consumed off the premises where it is sold (other than
21 alcoholic beverages, soft drinks, and food that has been
22 prepared for immediate consumption); prescription and
23 non-prescription medicines, drugs, and medical appliances;
24 modifications to a motor vehicle for the purpose of rendering
25 it usable by a disabled person; or insulin, urine testing
26 materials, and syringes and needles used by diabetics.

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

5 (e) The certificate of registration that is issued by the
6 Department to a retailer under the Retailers' Occupation Tax
7 Act or a serviceman under the Service Occupation Tax Act
8 permits the retailer or serviceman to engage in a business that
9 is taxable without registering separately with the Department
10 under an ordinance or resolution under this Section.

11 (f) The Department shall immediately pay over to the State
12 Treasurer, ex officio, as trustee, all taxes and penalties
13 collected under this Section to be deposited into the Flood
14 Prevention Occupation Tax Fund, which shall be an
15 unappropriated trust fund held outside the State treasury.

16 On or before the 25th day of each calendar month, the
17 Department shall prepare and certify to the Comptroller the
18 disbursement of stated sums of money to the counties from which
19 retailers or servicemen have paid taxes or penalties to the
20 Department during the second preceding calendar month. The
21 amount to be paid to each county is equal to the amount (not
22 including credit memoranda) collected from the county under
23 this Section during the second preceding calendar month by the
24 Department, (i) less 2% of that amount, which shall be
25 deposited into the Tax Compliance and Administration Fund and
26 shall be used by the Department in administering and enforcing

1 the provisions of this Section on behalf of the county, (ii)
2 plus an amount that the Department determines is necessary to
3 offset any amounts that were erroneously paid to a different
4 taxing body; (iii) less an amount equal to the amount of
5 refunds made during the second preceding calendar month by the
6 Department on behalf of the county; and (iv) less any amount
7 that the Department determines is necessary to offset any
8 amounts that were payable to a different taxing body but were
9 erroneously paid to the county. When certifying the amount of a
10 monthly disbursement to a county under this Section, the
11 Department shall increase or decrease the amounts by an amount
12 necessary to offset any miscalculation of previous
13 disbursements within the previous 6 months from the time a
14 miscalculation is discovered.

15 Within 10 days after receipt by the Comptroller from the
16 Department of the disbursement certification to the counties
17 provided for in this Section, the Comptroller shall cause the
18 orders to be drawn for the respective amounts in accordance
19 with directions contained in the certification.

20 If the Department determines that a refund should be made
21 under this Section to a claimant instead of issuing a credit
22 memorandum, then the Department shall notify the Comptroller,
23 who shall cause the order to be drawn for the amount specified
24 and to the person named in the notification from the
25 Department. The refund shall be paid by the Treasurer out of
26 the Flood Prevention Occupation Tax Fund.

1 (g) If a county imposes a tax under this Section, then the
2 county board shall, by ordinance, discontinue the tax upon the
3 payment of all indebtedness of the flood prevention district
4 provided that the ~~The~~ tax shall not be discontinued if such
5 discontinuance would impair the District's ability to repay any
6 until all indebtedness issued under this Act of the District
7 has been paid.

8 (h) Any ordinance imposing the tax under this Section, or
9 any ordinance that discontinues the tax, must be certified by
10 the county clerk and filed with the Illinois Department of
11 Revenue either (i) on or before the first day of April,
12 whereupon the Department shall proceed to administer and
13 enforce the tax or change in the rate as of the first day of
14 July next following the filing; or (ii) on or before the first
15 day of October, whereupon the Department shall proceed to
16 administer and enforce the tax or change in the rate as of the
17 first day of January next following the filing.

18 (j) County Flood Prevention Occupation Tax Fund. All
19 proceeds received by a county from a tax distribution under
20 this Section must be maintained in a special fund known as the
21 [name of county] flood prevention occupation tax fund. The
22 county shall, at the direction of the flood prevention
23 district, use moneys in the fund to pay the costs of providing
24 emergency levee repair and flood prevention and to pay bonds,
25 notes, and other evidences of indebtedness issued under this
26 Act.

1 (k) This Section may be cited as the Flood Prevention
2 Occupation Tax Law.

3 (l) This Section, as amended by this amendatory Act of the
4 99th General Assembly, shall be retroactively applied to any
5 tax imposed or indebtedness issued under this Act.

6 (Source: P.A. 96-939, eff. 6-24-10; 97-188, eff. 7-22-11.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".