



Rep. Stephanie A. Kifowit

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10400HB2393ham001

LRB104 06280 RTM 25069 a

1 AMENDMENT TO HOUSE BILL 2393

2 AMENDMENT NO. _____. Amend House Bill 2393 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Downstate Forest Preserve District Act is
5 amended by adding Section 13.9 as follows:

6 (70 ILCS 805/13.9 new)

7 Sec. 13.9. Special forest preserve district retailers' and
8 service occupation tax.

9 (a) As used in this Section, "Department" means the
10 Department of Revenue.

11 (b) The board of any forest preserve district may impose a
12 tax upon all persons engaged in the business of selling,
13 including leasing, tangible personal property, other than
14 personal property titled or registered with an agency of this
15 State's government, at retail in the district on the gross
16 receipts from the sales made in the course of business to

1 provide revenue to be used by the forest preserve district in
2 that county for general forest preserve district purposes,
3 including education, outdoor recreation, maintenance,
4 operations, public safety, trails, acquiring and restoring
5 land, and any other lawful purposes or programs determined by
6 the board of that district, except as otherwise provided in
7 this Section, if a proposition for the tax has been submitted
8 to the legal voters of that county and approved by a majority
9 of those voting on the question as provided in subsection (e).
10 If imposed, this tax shall be imposed only in 0.25%
11 increments.

12 The tax imposed under this subsection may not be imposed
13 on tangible personal property taxed at the 1% rate under the
14 Retailers' Occupation Tax Act or food for human consumption
15 that is to be consumed off the premises where it is sold. The
16 tax imposed under this subsection is not imposed on sales of
17 aviation fuel for so long as the revenue use requirements of 49
18 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the board.

19 The board must publish notice of the operational, capital,
20 or master plan of the district, and must make the plan publicly
21 available, before approval of the ordinance or resolution
22 imposing the tax.

23 The tax imposed by the board under this subsection and all
24 civil penalties that may be assessed as an incident of the tax
25 shall be collected and enforced by the Department. The
26 certificate of registration that is issued by the Department

1 to a retailer under the Retailers' Occupation Tax Act shall
2 permit the retailer to engage in a business that is taxable
3 without registering separately with the Department under an
4 ordinance or resolution adopted under this subsection. The
5 Department shall administer and enforce this subsection,
6 collect all taxes and penalties due under this subsection,
7 dispose of taxes and penalties so collected in the manner
8 provided in this subsection, and determine all rights to
9 credit memoranda arising on account of the erroneous payment
10 of a tax or penalty under this subsection.

11 In the administration of and compliance with this
12 subsection, the Department and persons who are subject to this
13 subsection shall (i) have the same rights, remedies,
14 privileges, immunities, powers, and duties; (ii) be subject to
15 the same conditions, restrictions, limitations, penalties, and
16 definitions of terms; and (iii) employ the same modes of
17 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,
18 1f, 1i, 1j, 1j.1, 1j.2, 1k, 1m, 1n, 1o, 1p, 1q, 1r, 1s, 2
19 through 2-70, 2a, 2b, 2c, 2h, 2i, 2j, 3 (except provisions
20 relating to transaction returns and quarter monthly payments),
21 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 5m, 5n, 6,
22 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the
23 Retailers' Occupation Tax Act and the Uniform Penalty and
24 Interest Act as if those provisions were set forth in this
25 subsection.

26 Persons subject to any tax imposed under this subsection

1 may reimburse themselves for their sellers' tax liability by
2 separately stating the tax as an additional charge. The charge
3 may be stated in combination, in a single amount, with State
4 tax which sellers are required to collect under the Use Tax Act
5 in accordance with the bracketed schedules as the Department
6 may prescribe.

7 If the Department determines that a refund should be made
8 under this subsection to a claimant instead of issuing a
9 credit memorandum, then the Department shall notify the State
10 Comptroller, who shall cause the order to be drawn for the
11 amount specified and to the person named in the notification
12 from the Department. The refund shall be paid by the State
13 Treasurer out of the Special Forest Preserve District
14 Retailers' and Service Occupation Tax Fund.

15 (c) If a tax has been imposed under subsection (b), then a
16 service occupation tax shall also be imposed at the same rate
17 upon all persons in the county engaged in the business of
18 making sales of service, who, as an incident to making those
19 sales of service, transfer tangible personal property,
20 including transfers by lease, within the county as an incident
21 to a sale of service. The tax imposed under this subsection may
22 not be imposed on tangible personal property taxed at the 1%
23 rate under the Service Occupation Tax Act.

24 The tax imposed under this subsection is not imposed on
25 sales of aviation fuel for so long as the revenue use
26 requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are

1 binding on the board. The tax imposed under this subsection
2 and all civil penalties that may be assessed as an incident
3 thereof shall be collected and enforced by the Department. The
4 Department shall administer and enforce this subsection;
5 collect all taxes and penalties due hereunder; to dispose of
6 taxes and penalties so collected in the manner hereinafter
7 provided; and determine all rights to credit memoranda arising
8 on account of the erroneous payment of tax or penalty
9 hereunder.

10 In the administration of, and compliance with this
11 subsection, the Department and persons who are subject to this
12 subsection shall (i) have the same rights, remedies,
13 privileges, immunities, powers, and duties; (ii) be subject to
14 the same conditions, restrictions, limitations, penalties,
15 exclusions, exemptions, and definitions of terms; and (iii)
16 employ the same modes of procedure as are prescribed in
17 Sections 2 (except that the reference to State in the
18 definition of supplier maintaining a place of business in this
19 State shall mean the district), 2a, 2b, 2c, 2d, 3 through 3-50
20 (in respect to all provisions therein other than the State
21 rate of tax), 4 (except that the reference to the State shall
22 be to the district), 5, 7, 8 (except that the jurisdiction to
23 which the tax shall be a debt to the extent indicated in that
24 Section 8 shall be the district), 9 (except as to the
25 disposition of taxes and penalties collected), 10, 11, 12
26 (except the reference therein to Section 2b of the Retailers'

1 Occupation Tax Act), 13 (except that any reference to the
2 State shall mean the district), Sections 15, 16, 17, 18, 19 and
3 20 of the Service Occupation Tax Act and the Uniform Penalty
4 and Interest Act, as fully as if those provisions were set
5 forth herein.

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

13 If the Department determines that a refund should be made
14 under this subsection to a claimant instead of issuing a
15 credit memorandum, then 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 Special Forest Preserve District
20 Retailers' and Service Occupation Tax Fund.

21 (d) A tax imposed under this Section applies to leases of
22 tangible personal property in effect, entered into, or renewed
23 on or after the effective date of the ordinance imposing the
24 tax under this Section in the same manner as the tax under this
25 Section applies to other sales and consistent with the tax on
26 leases under the Retailers' Occupation Tax Act and the Service

1 Occupation Tax Act.

2 (e) By resolution, the board may order the proposition for
3 the imposition of the tax under this Section to be submitted at
4 any election. The board shall certify the question to the
5 proper election authority, who shall submit the proposition at
6 an election in accordance with the general election law.

7 If a tax is imposed for specific operational needs,
8 capital projects, or public facilities, then the name of the
9 project may be included in the proposition at the discretion
10 of the board as determined in the enabling resolution. For
11 example, the "XXX Regional Trail", the "YYY Forest Preserve or
12 Multi-Use Facility", or the "ZZZ Natural Area Acquisition or
13 Restoration Project".

14 The proposition to impose a tax for forest preserve
15 purposes shall be in substantially the following form:

16 "Shall the [name of forest preserve district] impose a
17 Special Forest Preserve District Retailers' Occupation Tax
18 and Service Occupation Tax (commonly referred to as a
19 "sales tax") at the rate of [insert a percentage in
20 increments of 0.25%] in [name of county] for forest
21 preserve district expenditures in accordance with and
22 subject to the provisions of Section 13.9 of the Downstate
23 Forest Preserve District Act?"

24 The following additional information shall appear on the
25 ballot below the question:

26 "This would mean that a consumer would pay an

1 additional [insert amount] in sales tax for every \$100 of
2 tangible personal property bought at retail."

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

9 "Shall the [name of forest preserve district] impose a
10 Special Forest Preserve District Retailers' Occupation Tax
11 and Service Occupation Tax (commonly referred to as a
12 "sales tax") at the rate of [insert a percentage in
13 increments of 0.25%] in [name of county] for a period not
14 to exceed [insert number of years] for forest preserve
15 district expenditures in accordance with and subject to
16 the provisions of Section 13.9 of the Downstate Forest
17 Preserve District Act?"

18 The following additional information shall appear on the
19 ballot below the question:

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

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

1 If a majority of the legal voters voting on the
2 proposition vote in favor of it, the district may impose the
3 tax. A district may not submit more than one proposition
4 authorized by this Section to the legal voters at any one time.

5 (f) The Department shall immediately pay over to the State
6 Treasurer, ex officio, as trustee, all taxes and penalties
7 collected under this Section to be deposited into the Special
8 Forest Preserve District Retailers' and Service Occupation Tax
9 Fund, a special fund that is created in the State treasury;
10 Moneys in the Fund shall be disbursed as provided in this
11 Section.

12 As soon as possible after the first day of each month and
13 upon certification of the Department, the State Comptroller
14 shall order transferred, and the State Treasurer shall
15 transfer, to the STAR Bonds Revenue Fund the local sales tax
16 increment, as defined in the Innovation Development and
17 Economy Act, collected under this Section during the second
18 preceding calendar month for sales within a STAR bond
19 district.

20 After the monthly transfer to the STAR Bonds Revenue Fund,
21 on or before the 25th day of each calendar month, the
22 Department shall prepare and certify to the State Comptroller
23 the disbursement of the stated sums of money to the district
24 from retailers in the district who have paid taxes or
25 penalties to the Department during the second preceding
26 calendar month. The amount to be paid to the district shall be

1 the amount collected under this Section during the second
2 preceding calendar month by the Department plus an amount the
3 Department determines is necessary to offset any amounts that
4 were erroneously paid to a different taxing body, and not
5 including (i) an amount equal to the amount of refunds made
6 during the second preceding calendar month by the Department
7 on behalf of the district; (ii) any amount that the Department
8 determines is necessary to offset any amounts that were
9 payable to a different taxing body but were erroneously paid
10 to the district; (iii) any amounts that are transferred to the
11 STAR Bonds Revenue Fund, and (iv) 1.5% of the remainder, which
12 the Department shall transfer into the Tax Compliance and
13 Administration Fund. The Department, at the time of each
14 monthly disbursement to the district, shall prepare and
15 certify to the State Comptroller the amount to be transferred
16 into the Tax Compliance and Administration Fund under this
17 subsection. No later than 10 days after receipt by the State
18 Comptroller of the disbursement certification to the District
19 and the Tax Compliance and Administration Fund provided for in
20 this Section to be given to the State Comptroller by the
21 Department, the State Comptroller shall cause the orders to be
22 drawn for the respective amounts in accordance with directions
23 contained in the certification.

24 (g) For the purpose of determining whether a tax
25 authorized under this Section is applicable, a retail sale by
26 a producer of coal or another mineral mined in Illinois is a

1 sale at retail at the place where the coal or other mineral
2 mined in Illinois is extracted from the earth. This subsection
3 does not apply to coal or another mineral when it is delivered
4 or shipped by the seller to the purchaser at a point outside
5 Illinois so that the sale is exempt under the United States
6 Constitution as a sale in interstate or foreign commerce.

7 (h) Nothing in this Section shall be construed to
8 authorize the board to impose a tax upon the privilege of
9 engaging in any business that under the Constitution of the
10 United States may not be made the subject of taxation by this
11 State.

12 (i) The board shall file a certified copy of the ordinance
13 imposing, increasing the rate of, or discontinuing a tax under
14 this Section with the Department, together with a
15 certification that the ordinance received referendum approval
16 in the case of the imposition of or increase in the rate of
17 such tax, either (i) after October 1 but on or before May 1,
18 whereupon the Department shall proceed to administer and
19 enforce the imposition of, increase in the rate of, or
20 discontinuation of the tax as of the July 1 immediately
21 following the filing; or (ii) after May 1, but on or before
22 October 1, whereupon the Department shall proceed to
23 administer and enforce the imposition of, increase in the rate
24 of, or discontinuation of the tax as of the January 1
25 immediately following the filing. If the tax imposed under
26 this Section is scheduled to sunset by referendum, the board

1 is required to monitor the sunset date and notify the
2 Department of the sunset by filing a certified copy of an
3 ordinance that includes the sunset date (i) after October 1
4 but on or before May 1, whereupon the Department shall proceed
5 to discontinue the tax as of the July 1 immediately following
6 the filing; or (ii) after May 1 but on or before October 1,
7 whereupon the Department shall proceed to discontinue the tax
8 as of the January 1 immediately following the filing.

9 (j) When certifying the amount of a monthly disbursement
10 to the district under this Section, the Department shall
11 increase or decrease the amounts by an amount necessary to
12 offset any misallocation of previous disbursements. The offset
13 amount shall be the amount erroneously disbursed within the
14 previous 6 months from the time a misallocation is discovered.

15 Section 10. The State Finance Act is amended by adding
16 Section 5.1030 as follows:

17 (30 ILCS 105/5.1030 new)

18 Sec. 5.1030. The Special Forest Preserve District
19 Retailers' and Service Occupation Tax Fund.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."