No. 127126

IN THE
SUPREME COURT OF ILLINOIS

ILLINOIS ROAD AND TRANSPORTATION BUILDERS ASSOCIATION, FEDERATION OF WOMEN CONTRACTORS, ILLINOIS ASSOCIATION OF AGGREGATE PRODUCERS, ASSOCIATED GENERAL CONTRACTORS OF ILLINOIS, ILLINOIS ASPHALT PAVEMENT ASSOCIATION, ILLINOIS READY MIXED CONCRETE ASSOCIATION, GREAT LAKES CONSTRUCTION ASSOCIATION, AMERICAN COUNCIL OF ENGINEERING COMPANIES (ILLINOIS CHAPTER), CHICAGOLAND ASSOCIATED GENERAL CONTRACTORS, UNDERGROUND CONTRACTORS ASSOCIATION OF ILLINOIS, and ILLINOIS CONCRETE PIPE ASSOCIATION,

Plaintiffs-Appellants,

v.

COUNTY OF COOK, a body politic and corporate,

Defendant-Appellee.

On Appeal from the Appellate Court of Illinois, First Judicial District, No. 1-19-0396
Heard on Appeal from the Circuit Court of Cook County, Illinois
No. 18-CH-02992
The Honorable Peter Flynn, Judge Presiding

BRIEF OF THE CITY OF CHICAGO, THE CITY OF BERWYN, AND THE VILLAGE OF BRIDGEVIEW AS *AMICI CURIAE* IN SUPPORT OF DEFENDANT-APPELLEE

[*Counsel Listed Inside Cover]

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POINTS AND AUTHORITIES

INTEREST OF *AMICI CURIAE*

Amici Curiae, the City of Chicago, the City of Berwyn, and the Village of Bridgeview, submit this brief in support of Cook County, an Illinois home rule unit of local government. *Amici* are among the 218 home rule municipalities in Illinois, the largest of which is Chicago. Chicago is the third largest city in the nation, with a population of approximately 2.7 million. As home rule units, *amici* have a substantial interest in the outcome of this litigation, which concerns the interpretation of Article IX, section 11 of the Illinois Constitution – sometimes popularly referred to as the "Transportation Lockbox Amendment" – as applied to home rule entities. Illinois voters adopted Article IX, section 11 ("the Amendment") in the 2016 general election, after the General Assembly proposed it in accordance with state constitutional and statutory requirements. See Ill. Const. art. XIV, § 2; 5 ILCS 20/2. The Amendment restricts expenditures of revenue from certain transportation-related taxes and fees to transportation-related purposes.

In this litigation, plaintiffs, a consortium of private industry groups involved in the transportation construction and planning trades, sued Cook County to "enforce" the Amendment with respect to the County's use of revenues collected from six specific taxes plaintiffs identified as transportation-related. Plaintiffs asserted that the County's failure to devote those revenues exclusively to transportation-related purposes violated the Amendment. The circuit court granted the County's motion to dismiss, and the appellate court affirmed. The appellate court held that the Amendment

restricts how home rule units of local government spend tax revenues only where such spending is dictated by state statute, and not where the revenue is generated by taxes imposed pursuant to the local government's home rule authority, or by taxes imposed pursuant to a state statute that includes no restrictions on how revenue is spent. 2021 IL App (1st) 190396, ¶¶ 107-08, 118-22, 142-43, 145-54, 156-60, 167.

Plaintiffs and their amici press for an expansive reading of the Amendment that would require local home rule governments to sequester *all* revenues from transportation-related taxes, even where such taxes are imposed pursuant to the local government's home rule authority or a statute without restrictions, exclusively to fund transportation-related purposes, without regard to other local needs and priorities. The appellate court was correct to hold that the Amendment does not constrain a home rule entity's spending decisions in that drastic fashion.

Preserving the authority of home rule local governments to direct their spending decisions is of vital importance to *amici*, all of which have a direct, resource-driven interest in maintaining their prerogative to allocate tax revenues, except where dictated by statute, in accordance with the needs and priorities of the communities they serve. Binding home rule entities to devote all revenues derived from any taxes that can be described as relating to transportation solely to transportation-related purposes, even in the face of other pressing local needs, would likely require severe reductions in funding for critical programs in areas such as education, social services, public safety,

and health care, and could impair local governments' ability to spend funds as needed to respond to unexpected events like natural disasters or public health emergencies. Accordingly, *amici* submit this brief because of the extreme negative consequences for local governments and their residents that would result from adopting plaintiffs' interpretation of the Amendment.

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED

Illinois Constitution, Article IX, section 11:

> Transportation Funds
>
> (a) No moneys, including bond proceeds, derived from taxes, fees, excises, or license taxes relating to registration, title, or operation or use of vehicles, or related to the use of highways, roads, streets, bridges, mass transit, intercity passenger rail, ports, airports, or to fuels used for propelling vehicles, or derived from taxes, fees, excises, or license taxes relating to any other transportation infrastructure or transportation operation, shall be expended for purposes other than as provided in subsections (b) and (c).
>
> (b) Transportation funds may be expended for the following: the costs of administering laws related to vehicles and transportation, including statutory refunds and adjustments provided in those laws; payment of highway obligations; costs for construction, reconstruction, maintenance, repair, and betterment of highways, roads, streets, bridges, mass transit, intercity passenger rail, ports, airports, or other forms of transportation; and other statutory highway purposes. Transportation funds may also be expended for the State or local share of highway funds to match federal aid highway funds, and expenses of grade separation of highways and railroad crossings, including protection of at-grade highways and railroad crossings, and, with respect to local governments, other transportation purposes as authorized by law.
>
> (c) The costs of administering laws related to vehicles and transportation shall be limited to direct program expenses related to the following: the enforcement of traffic, railroad, and motor carrier laws; the safety of highways, roads, streets,

bridges, mass transit, intercity passenger rail, ports, or airports; and the construction, reconstruction, improvement, repair, maintenance, operation, and administration of highways, under any related provisions of law or any purpose related or incident to, including grade separation of highways and railroad crossings. The limitations to the costs of administering laws related to vehicles and transportation under this subsection (c) shall also include direct program expenses related to workers' compensation claims for death or injury of employees of the State's transportation agency; the acquisition of land and the erection of buildings for highway purposes, including the acquisition of highway rights-of-way or for investigations to determine the reasonable anticipated future highway needs; and the making of surveys, plans, specifications, and estimates for the construction and maintenance of flight strips and highways. The expenses related to the construction and maintenance of flight strips and highways under this subsection (c) are for the purpose of providing access to military and naval reservations, defense-industries, defense-industry sites, and sources of raw materials, including the replacement of existing highways and highway connections shut off from general use at military and naval reservations, defense-industries, and defense-industry sites, or the purchase of rights-of-way.

(d) None of the revenues described in subsection (a) of this Section shall, by transfer, offset, or otherwise, be diverted to any purpose other than those described in subsections (b) and (c) of this Section.

(e) If the General Assembly appropriates funds for a mode of transportation not described in this Section, the General Assembly must provide for a dedicated source of funding.

(f) Federal funds may be spent for any purposes authorized by federal law.

Illinois Constitution, Article VII, section 6(a):

Powers Of Home Rule Units

(a) A County which has a chief executive officer elected by the electors of the county and any municipality which has a population of more than 25,000 are home rule units. Other municipalities may elect by referendum to become home rule units. Except as limited by this Section, a home rule unit may exercise any power and perform any function pertaining to its

government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt.

Illinois Constitution, Article XIV, section 2(b):

Amendments By General Assembly

(b) Amendments proposed by the General Assembly shall be published with explanations, as provided by law, at least one month preceding the vote thereon by the electors. The vote on the proposed amendment or amendments shall be on a separate ballot. A proposed amendment shall become effective as the amendment provides if approved by either three-fifths of those voting on the question or a majority of those voting in the election.

The Illinois Constitutional Amendment Act, Section 2, 5 ILCS 20/2:

Sec. 2. The General Assembly in submitting an amendment to the Constitution to the electors, or the proponents of an amendment to Article IV of the Constitution submitted by petition, shall prepare a brief explanation of such amendment, a brief argument in favor of the same, and the form in which such amendment will appear on the separate ballot as provided by Section 16-6 of the Election Code, as amended. The minority of the General Assembly, or if there is no minority, anyone designated by the General Assembly shall prepare a brief argument against such amendment. * * * * The explanation, the arguments for and against each constitutional amendment, and the form in which the amendment will appear on the separate ballot shall be filed in the office of the Secretary of State with the proposed amendment. At least one month before the next election of members of the General Assembly, following the passage of the proposed amendment, the Secretary of State shall publish the amendment, in full in 8 point type, or the equivalent thereto, in at least one secular newspaper of general circulation in every county in this State in which a newspaper is published. In counties in which 2 or more newspapers are published, the Secretary of State shall cause such amendment to be published in 2 newspapers. In counties having a population of 500,000 or more, such amendment shall be published in not less than 6 newspapers of general circulation. After the first publication, the publication of such amendment shall be repeated once each week for 2 consecutive weeks. * * * * In addition to the notice hereby required to be

> published, the Secretary of State shall also cause the existing form of the constitutional provision proposed to be amended, the proposed amendment, the explanation of the same, the arguments for and against the same, and the form in which such amendment will appear on the separate ballot, to be published in pamphlet form in 8 point type or the equivalent thereto; and the Secretary of State shall mail such pamphlet to every mailing address in the State, addressed to the attention of the Postal Patron. He shall also maintain a reasonable supply of such pamphlets so as to make them available to any person requesting one.

The Illinois Constitutional Amendment Act, Section 4, 5 ILCS 20/4:

> Sec. 4. At the election, the proposed amendment and explanation shall be printed upon the separate ballot in accordance with the provisions of Section 16-6 of "An Act concerning elections," approved May 11, 1943, as amended.

ARGUMENT

The General Assembly proposed the Amendment, and the voters of Illinois approved it, to prevent the diversion of funds that had been specifically designated for transportation to other purposes. The Amendment's goal was to put an end to the General Assembly's practice of "sweeping" special purpose transportation funds to address shortfalls in funding for other purposes, without amending or repealing the statutes that dedicated revenues to those special purpose funds. Thus, the Amendment recognizes the importance of adequate funding for transportation and infrastructure projects, and it protects funds that the General Assembly has specifically designated for transportation purposes from diversion to other purposes.

At the same time, the constitution also preserves the autonomy of home rule units over local governmental affairs. That includes how a home rule unit spends revenue from taxes that it imposes pursuant to its home rule authority, as well as revenue it receives pursuant to state statutes that include no statutory restrictions on how that revenue may be spent. And nothing in the Amendment interferes with local governments' discretion to make spending decisions pursuant to home rule authority. Indeed, the General Assembly made this explicit when it told the voters in the summary it was constitutionally required to include on the ballot that the Amendment affects taxes "dedicated" to transportation but "does not, and is not intended to, alter home rule powers granted under this Constitution." C. 480-81. In order to give effect to the intent of the General Assembly and the voters who approved the Amendment, and to adhere to the Illinois Constitution's reservation of autonomy for home rule units of local government, this court should affirm the judgment of the appellate court.

THE AMENDMENT DOES NOT RESTRICT A HOME RULE UNIT'S SPENDING OF TAX REVENUES ABSENT A STATUTE DEDICATING REVENUES TO TRANSPORTATION PURPOSES.

The General Assembly proposed the Amendment in order to preserve for their intended purpose funds from revenue streams that were earmarked for transportation-related projects, but that had in practice sometimes been diverted to other purposes in response to budget shortfalls. In particular, prior to the Amendment's adoption, state motor fuel taxes and vehicle registration fees were deposited into dedicated road and construction funds to

pay for construction projects and debt service on bonds issued for previous construction projects, but the legislature was concerned that, under a decision by this court, A.B.A.T.E. of Illinois, Inc. v. Quinn, 2011 IL 110611, those funds could easily be transferred to the general revenue fund. In A.B.A.T.E., plaintiffs challenged the General Assembly's transfer of funds that had been statutorily dedicated to a program to promote motorcycle safety to the general revenue fund. The statute that created the motorcycle safety program also provided for a fund into which the Secretary of State was directed to deposit motorcycle registration fees, but the General Assembly, facing shortfalls in revenue, authorized transfers from the motorcycle safety program fund to the general revenue fund. Id. ¶¶ 4-8. The court, recognizing the General Assembly's authority to order the transfer of money between funds, held that the General Assembly was not required to amend the statute creating the motorcycle safety fund to do so. Id. ¶¶ 25, 42-45.

In response to A.B.A.T.E., the General Assembly proposed the Amendment to erect a barrier to prevent "sweeps" of transportation-dedicated state funds into the general revenue fund or other non-transportation specific funds – the sort of barrier the court concluded was absent in A.B.A.T.E. See C. 501-02. But the Amendment does not restrict how a home rule entity may spend revenues from taxes the home rule entity generates under its independent constitutional authority to tax, or revenues from taxes imposed without statutory restrictions on how revenues may be

spent. A contrary interpretation would improperly and unduly restrict home rule authority.

A. Preserving The Breadth Of Home Rule Power Is Critical To The Governance Of Home Rule Units.

Except as limited by Article VII, the Illinois Constitution authorizes home rule entities to "exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt." Ill. Const. 1970, art. VII, § 6(a). This court has repeatedly made clear that this provision "was written with the intention to give home rule units the broadest powers possible," so that they have flexibility to craft local solutions for local issues and problems. Palm v. 2800 Lake Shore Drive Condominium Association, 2013 IL 110505, ¶ 30 (citing Scadron v. City of Des Plaines, 153 Ill. 2d 164, 174 (1992)). As this court has explained, home rule authority

> is predicated on the assumption that problems in which local governments have a legitimate and substantial interest should be open to local solution and reasonable experimentation to meet local needs, free from veto by voters and elected representatives of other parts of the State who might disagree with the particular approach advanced by the representatives of the locality involved or fail to appreciate the local perception of the problem.

Kalodimos v. Village of Morton Grove, 103 Ill. 2d 483, 502 (1984). Consistent with these principles, the powers of home rule units are "liberally construed." Rajterowski v. City of Sycamore, 405 Ill. App. 3d 1086, 1113 (2d Dist. 2010).

Among the core, vital powers of a home rule unit is the ability to make decisions about how to spend its revenue, and the courts have repeatedly upheld such exercises of home rule authority. See, e.g., Pechous v. Slawko, 64 Ill. 2d 576, 591 (1976) (fixing salaries of officers); Independent Voters of Illinois v. Ahmad, 2014 IL App (1st) 123629, ¶ 54 (expenditures under parking meter concession agreement); Rajterowski, 405 Ill. App. 3d at 1115 (payments by city to its school district); Crawford v. City of Chicago, 304 Ill. App. 3d 818, 827 (1st Dist. 1999) (decision about how to extend compensation and benefits); City of Burbank v. Illinois State Labor Relations Board, 185 Ill. App. 3d 997, 1005 (1st Dist. 1989) (approving settlement agreement and payment); Clayton v. Village of Oak Park, 117 Ill. App. 3d 560, 567 (1st Dist. 1983) (upholding ordinance creating equity assurance program including reimbursements to homeowners); Dumke v. Anderson, 44 Ill. App. 3d 626, 634 (1st Dist. 1976) (fixing salaries of officials).

Plaintiffs' interpretation of the Amendment to constrain home rule units' expenditures of any revenues from taxes characterized as "relating to" transportation – even funds generated from home rule taxes or from other taxes not dedicated by statute to transportation purposes – goes against this most basic principle by radically restricting the ability of home rule entities to make spending decisions in accordance with local priorities. Indeed, reading the Amendment to so restrict local government spending would invite private interests to interfere with local governmental spending decisions by bringing lawsuits like this one, demanding a "line-item

accounting" of how funds are allocated. See C. 65. Home rule entities must be able to maintain control of their own budgetary allocations and to direct funding to areas where it is critical.

Thus, unsurprisingly, there is strong evidence that the General Assembly intended no interference with this aspect of home rule spending. As we now explain, the ballot summary presented to voters as an explanation of the Amendment, as well as the legislative history of the General Assembly's approval of the Amendment for presentation to voters, clearly demonstrate that the Amendment was not intended to interfere with the spending authority of home rule entities except where tax revenues are statutorily dedicated to transportation purposes.

B. The Ballot Summary And Legislative History Show That The General Assembly Intended No Restriction On Local Governments' Use Of Tax Funds Not Statutorily Directed To Transportation Purposes.

When the General Assembly proposes an amendment to the constitution, it is not "the exercise of legislative power . . . in its ordinary sense"; rather, the authority to propose such amendments "is vested in the Legislature only by the grant found in the Constitution [in Article XIV, § 2], and such power must be exercised within the terms of the grant." City of Chicago v. Reeves, 220 Ill. 274, 288 (1906). One of those terms is the requirement that a proposed amendment be "published with explanations, as provided by law, at least one month preceding the vote thereon by the electors." Ill. Const. art. XIV, § 2(b). In addition, the Illinois Constitutional

Amendment Act further specifies that the General Assembly, in submitting a constitutional amendment to the voters, must "prepare a brief explanation of such amendment," along with a "brief argument in favor of the same" as well as a "brief argument against such amendment." 5 ILCS 20/2. And, "[a]t the election, the proposed amendment and explanation shall be printed upon the separate ballot." Id. 20/4.

Pursuant to those requirements, the following explanation of the Amendment appeared on the ballots cast by voters in 2016:

> The proposed amendment adds a new Section to the Revenue Article of the Illinois Constitution that provides revenue generated from transportation related taxes and fees (referred to as "transportation funds") shall be used exclusively for transportation related purposes. Transportation related taxes and fees include motor fuel taxes, vehicle registration fees, and other taxes and user fees *dedicated* to public highways, roads, streets, bridges, mass transit (buses and rail), ports, or airports.
>
> Under the proposed amendment, transportation funds may be used by the State or local governments only for the following purposes: (1) costs related to administering transportation and vehicle laws, including public safety purposes and the payment of obligations such as bonds; (2) the State or local share necessary to secure federal funds or for local government transportation purposes as authorized by law; the construction, reconstruction, improvement, repair, maintenance, and operation of. highways, mass death or injury of transportation agency employees; and (5) to purchase land for building highways or buildings to be used for highway purposes.
>
> This new Section is a limitation on the power of the General Assembly or a unit of local government to use, divert, or transfer transportation funds for a purpose other than transportation. *It does not, and is not intended to, impact or change the way in which the State and local governments use sales taxes, including the sales and excise tax on motor fuel, or alter home rule powers granted under this Constitution.* It does not seek to change the way in which the State funds programs

> administered by the Illinois Secretary of State, Illinois Department of Transportation, and operations by the Illinois State Police directly dedicated to the safety of roads, or entities or programs funded by units of local government. Further, the Section does not impact the expenditure of federal funds, which may be spent for any purpose authorized by federal law.

C. 480-81 (emphasis added).

The obvious purpose of a ballot summary is to ensure that voters are accurately informed about what the proposed amendment entails, so that they may cast their ballots intelligently. Voters, when called upon to decide whether to enshrine a change in the constitution, are entitled to know what it is they are deciding. Here, the interpretation of the Amendment that plaintiffs advance cannot be squared with the explanation of the Amendment that appeared on the ballot; in other words, the voters did not approve an amendment to the constitution that restricts home rule authority in the manner plaintiffs urge. The opposite is true. The Amendment should be interpreted consistent with what the voters were told its effects would be. Indeed, if the Amendment were applied in the manner advocated by plaintiffs, it would mean that the constitutionally required ballot summary

was materially incorrect, which should render the Amendment itself invalid.[1] Illinois case law makes clear that a provision should always be interpreted in a manner that makes it valid, if possible. See, e.g., City of Chicago v. Holland, 206 Ill. 2d 480, 488 (2003) ("This court has a duty to construe a statute in a manner that upholds its validity and constitutionality if such a construction is reasonably possible.").

The Amendment's legislative history likewise makes clear that it was not intended to interfere with home rule units' spending decisions in the manner plaintiffs urge. During the legislative debates, one of the Amendment's sponsors clarified that "revenues from existing local taxes may be distributed as provided by current law." C. 514. That sponsor further explained that the Amendment was "not intended to eliminate, restrict, or apply to current constitutional and statutory authority that home-rule units have . . . relative to taxes, spending, and public safety functions," C. 511, and was "intended to be construed broadly so as not to interfere in any way with local governments' current authority and practices," C. 512.

Plaintiffs assert that because the Amendment itself does not specify

[1] Illinois courts have invalidated laws and other measures where a required notice was found to contain material misstatements or omissions. See, e.g., Haggard v. Fay, 255 Ill. 85, 90 (1912) (invalidating tax where required notice of public meeting was "confusing and misleading"); Ohr v. Prairie Material Sales, Inc., 100 Ill. App. 3d 178, 180 (1st Dist. 1981) (invalidating tax deeds where notices incorrectly stated where the lots were located, "without regard to whether any ... interested party was misled," because "prejudice to respondent is assumed"); People v. Chicago and Northwestern Railway Co., 91 Ill. App. 3d 49, 52 (2d Dist. 1980) (invalidating tax increase for 1976 where notice referred only to 1975).

any limitation upon its application to home rule units, the Amendment's provision that any taxes "relating to" the use of any transportation infrastructure or operation must be applied literally to all such taxes. But a rule of construction is "not a rule of law" but rather a tool to aid in ascertaining the intent of a provision; in interpreting a statute, rules of construction "may be overcome by a 'strong indication of contrary legislative intent.'" People v. Gibson, 2018 IL App (1st) 162177, ¶ 131 (quoting Baker v. Miller, 159 Ill. 2d 249, 260 (1994)). As we have explained, there is a strong indication of contrary legislative intent here. Relatedly, where a plain or literal reading of a statute would produce an absurd result, that reading should be avoided. E.g., People v. Hanna, 279 Ill. 2d 486, 498 (2003). Reading the Amendment the way plaintiffs urge would mean the voters thought they were approving something that preserved home rule authority, but approved the opposite. The General Assembly could not have intended that bait and switch. Moreover, avoiding an illogical or absurd result is even more important where, as here, the case concerns a constitutional amendment rather than a statute, which the legislature itself can amend if judicial application distorts its intent.

C. Plaintiffs' Interpretation Of The Amendment Could Have Dire Effects On Home Rule Units.

Plaintiffs' interpretation of the Amendment restricts home rule entities from spending revenue derived from *any* tax falling into the broad category of "transportation-related," for any purpose that is not also transportation-related. The consequences of such an interpretation of the Amendment could

be extraordinary for many home rule entities. Chicago, for example, collects taxes similar to the Cook County taxes that are at issue in this litigation, including:

- a five-cents per gallon tax on vehicle fuel that it imposes pursuant to its home rule authority, Municipal Code of Chicago ("MCC"), Ill. Ch. 3-52;
- a parking tax that it imposes pursuant to its home-rule authority, MCC Ch. 4-236;
- a ground transportation tax that it imposes pursuant to a state statute including no restrictions on use, MCC Ch. 3-46;
- various sales and use taxes that it imposes pursuant to state statutes including no restrictions on use, significant portions of which relate to the sale or use of products that could be characterized as transportation-related, MCC Ch. 3-27 (non-titled use tax), 3-28 (titled use tax), 3-29 (use tax for non-retail vehicle sales), 3-40 (sales tax), 3-60 (automobile rental use tax);
- and the local distributions of various taxes imposed by the State, such as the State use tax, 35 ILCS 5/105, and the State sales tax, 35 ILCS 5/120, which likewise include no restrictions on use, and significant portions of which relate to the sale or use of products that are transportation-related.

The City's 2020 Appropriations Ordinance shows that the estimated revenues from the first three taxes alone (vehicle fuel, parking, and ground

transportation) total more than $300,000,000 a year. At present, revenues from these taxes are deposited into Chicago's corporate fund, which can be spent as Chicago's priorities dictate. But if all these taxes were deemed to be governed by the Amendment, such that Chicago could spend these revenues only on transportation-related projects, it could make hundreds of millions of dollars unavailable for other critical services.

In addition, in recent years, Chicago and other home rule municipalities have entered into sales tax assignment agreements in reliance on statutes the General Assembly enacted after the Amendment became effective. These statutes explicitly permit assignments of tax revenues. See 65 ILCS 5/8-13-10; id. 5/8-13-15 ("assignment statutes").[2] *Amici* Berwyn and Bridgeview have similarly entered into tax assignment agreements since 2017, in reliance on these statutes. In passing the assignment statutes authorizing these securitization structures, the General Assembly gave no indication that the Amendment would interfere with the assignment of any

[2] 65 ILCS 5/8-13-10 provides: "Any transferring unit which receives revenues or taxes from a State entity may (*to the extent not prohibited by any applicable statute*, regulation, rule, or agreement governing the use of such revenues or taxes) authorize, by ordinance, the conveyance of all or any portion of such revenues or taxes to an issuing entity." 65 ILCS 5/8-13-10 (emphasis added). 65 ILCS 5/8-13-15 provides, in part: "The State of Illinois pledges to and agrees with each transferring unit and issuing entity that *the State will not limit or alter the rights and powers vested in the State entities by this Article with respect to the disposition of transferred receipts so as to impair the terms of any contract* . . . In addition, *the State pledges to and agrees with each transferring unit and each issuing entity that the State will not limit or alter the basis on which the transferring unit's share or percentage of transferred receipts is derived, or the use of such funds, so as to impair the terms of any such contract*. . . ." Id. (emphasis added).

tax revenues deemed to be transportation-related, or impede how such revenues could be spent. Indeed, the General Assembly pledged not to impair the contracts that resulted from any such assignments, and municipalities such as Chicago relied on those assurances. Id. 5/8-13-15. This is further evidence that the General Assembly did not intend for the Amendment to be given the broad reading plaintiffs propose.[3] Yet, plaintiffs' preferred reading of the Amendment, which would require revenue from any tax "relating to" transportation to be directed toward transportation spending, could mean such assignment agreements would be impaired, jeopardizing the substantial benefits municipalities receive from such arrangements.

[3] By contrast, in 2019, when the General Assembly intended to comply with the requirements of 49 U.S.C. §§ 47107(b) and 47133, restricting revenues from aviation fuel taxes to payment for airport-related purposes, it amended the sales and use tax statutes to expressly provide for those restrictions. See Public Act 101-604; see also, e.g., 65 ILCS 5/8-11-1. It is thus evident that the General Assembly knows how to clarify that tax revenues must be dedicated to certain transportation purposes when it intends to do so.

CONCLUSION

For the foregoing reasons, this court should affirm the judgment of the appellate court.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service, is 19 pages.

/s/ Sara K. Hornstra
SARA K. HORNSTRA, Attorney

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of law as provided in 735 ILCS 5/1-109 that the statements in this instrument are true and correct and that the foregoing Brief of the City of Chicago and the Illinois Municipal League as *Amici Curiae* in Support of Defendants-Appellees was served on all counsel of record via *File & Serve Illinois* on October 13, 2021.

/s/ Sara K. Hornstra
SARA K. HORNSTRA, Attorney