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INTEREST OF THE *AMICUS*

As a legislative leader and as members of the Illinois General Assembly, Representatives Jim Durkin and Ryan Spain have interests in advocating for legislation that is passed by the Illinois General Assembly and constitutional amendments that are approved by the Illinois General Assembly to be enforced as written and in accordance with their plain meaning.

Legislators should be able to have faith that legislation will be enforced as written and not judicially modified based on extratextual considerations.

As a Cook County resident and a legislator representing a legislative district in Cook County, Representative Durkin has an interest in seeing that Cook County complies with its obligations under the Safe Roads Amendment and stops diverting transportation funds to non-transportation purposes. Representative Durkin's constituents pay significant transportation taxes and fees to Cook County, and they want to see those funds invested in the County's transportation infrastructure, as required by the Safe Roads Amendment.

In addition, as a legislator representing a legislative district that includes portions of Peoria and Peoria Heights, which are home rule units of local government, Representative Spain has an interest in seeing that home rule units comply with their obligations under the Safe Roads Amendment and stop diverting transportation funds to non-transportation purposes. Representative Spain's constituents who live in the home rule city of Peoria and surrounding communities also want any transportation taxes and fees that they pay to those home rule units to be invested in transportation, as required by the Safe Roads Amendment and as clarified by the Transportation Funding Protection Act.

In this case, Representatives Jim Durkin and Ryan Spain disagree with the Circuit Court and the Appellate Court opinions. These courts held that the Safe Roads Amendment and the Transportation Funding Protection Act apply only to funds that are spent under the dictates of a State statute, and not to funds spent under home rule authority. That is not consistent with the intent of the Illinois House of Representatives.

ARGUMENT

A. Safe Roads Amendment

As House Republican Leader, Representative Durkin helped pass HJRCA0036, which placed the Safe Roads Amendment on the ballot in the 2016 General Election. He did so and personally voted to approve HJRCA0036 in the Illinois House of Representatives, based on its plain language.

When he voted for HJRCA0036, Representative Durkin never expected nor imagined that it would later be interpreted to exempt transportation funds that are spent under home rule authority because the legislation never placed such a limitation in the plain language of HJRCA0036. Such an exemption would largely defeat the purpose of HJRCA0036. The intent, as shown by the plain language of what eventually became the Safe Roads Amendment, was to prohibit the diversion of transportation funds to non-transportation purposes by either the State government or by any units of local government. Exempting transportation funds spent by home rule units would be contrary to that purpose.

As a Cook County resident and a legislator representing a district within Cook County, Representative Durkin is well aware that Cook County and other home rule units collect hundreds of millions of dollars in transportation tax revenue every year. Exempting

those funds and allowing them to be spent on non-transportation purposes would go against everything the General Assembly was seeking to achieve in HJRCA0036.

If the Illinois General Assembly wanted to exempt home rule units, the Illinois General Assembly would have said so in HJRCA0036. It did not.

B. Transportation Funding Protection Act

As House Republican Leader, Representative Durkin also helped pass SB1939 in 2019 and personally voted for that legislation based on its plain meaning.

While serving in the Illinois General Assembly in 2019, Representatives Durkin and Spain considered and supported SB1939 that included Public Act 101-0032, known as the “Transportation Funding Protection Act,” which is now codified at 30 ILCS 178/5-10. The Illinois General Assembly clarified as “declarative of existing law” that “proceeds of the funds described in this Act and all other funds described in Section 11 of Article IX of the Illinois Constitution are dedicated to transportation purposes and shall not, by transfer, offset, or otherwise, be diverted by any local government, including, without limitation, any home rule unit of government, to any purpose other than transportation purposes.” 30 ILCS 178/5-10(b).

The purpose of this language was to clarify, in the wake of a contrary ruling by the Circuit Court of Cook County in this litigation, that the Safe Roads Amendment binds home rule units and applies to transportation funds that are spent under home rule authority—under the Safe Roads Amendment, Cook County and other home rule units must spend those funds on the transportation purposes described in the Amendment.

No preemption language was necessary because the Transportation Funding Protection Act was intended to clarify the meaning of a constitutional amendment that, as of 2019, already existed.

As a legislator who participated in the passage of the Transportation Funding Protection Act, Representative Spain knew that the Illinois General Assembly's intent in passing that legislation was to make it absolutely clear that the Safe Roads Amendment does not exempt home rule units, or funds spent under home rule authority, from the Amendment's scope. Like all other units of local government, home rule units must comply with the Amendment and may not divert transportation funds to purposes other than transportation purposes. Any other interpretation would be contrary to what the Illinois General Assembly intended to accomplish in passing the Transportation Funding Protection Act, and in fact would render the Transportation Funding Protection Act a pointless exercise.

CONCLUSION

The Safe Roads Amendment is plain and unambiguous. It does not include an exemption of transportation funds spent under home rule authority because it does not say that.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH RULE 341

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in 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, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 4 pages.

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