



Rep. Margo McDermed

Filed: 4/16/2018

10000HB1899ham001

LRB100 04431 HLH 38208 a

1 AMENDMENT TO HOUSE BILL 1899

2 AMENDMENT NO. _____. Amend House Bill 1899 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing
5 Section 5-1006.7 as follows:

6 (55 ILCS 5/5-1006.7)

7 Sec. 5-1006.7. School facility occupation taxes.

8 (a) In any county, a tax shall be imposed upon all persons
9 engaged in the business of selling tangible personal property,
10 other than personal property titled or registered with an
11 agency of this State's government, at retail in the county on
12 the gross receipts from the sales made in the course of
13 business to provide revenue to be used exclusively for school
14 facility purposes if a proposition for the tax has been
15 submitted to the electors of that county and approved by a
16 majority of those voting on the question as provided in

1 subsection (c). The tax under this Section shall be imposed
2 only in one-quarter percent increments and may not exceed 1%.

3 This additional tax may not be imposed on the sale of food
4 for human consumption that is to be consumed off the premises
5 where it is sold (other than alcoholic beverages, soft drinks,
6 and food that has been prepared for immediate consumption) and
7 prescription and non-prescription medicines, drugs, medical
8 appliances and insulin, urine testing materials, syringes and
9 needles used by diabetics. The Department of Revenue has full
10 power to administer and enforce this subsection, to collect all
11 taxes and penalties due under this subsection, to dispose of
12 taxes and penalties so collected in the manner provided in this
13 subsection, and to determine all rights to credit memoranda
14 arising on account of the erroneous payment of a tax or penalty
15 under this subsection. The Department shall deposit all taxes
16 and penalties collected under this subsection into a special
17 fund created for that purpose.

18 In the administration of and compliance with this
19 subsection, the Department and persons who are subject to this
20 subsection (i) have the same rights, remedies, privileges,
21 immunities, powers, and duties, (ii) are subject to the same
22 conditions, restrictions, limitations, penalties, and
23 definitions of terms, and (iii) shall employ the same modes of
24 procedure as are set forth in Sections 1 through 10, 2 through
25 2-70 (in respect to all provisions contained in those Sections
26 other than the State rate of tax), 2a through 2h, 3 (except as

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

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

11 Persons subject to any tax imposed under the authority
12 granted in this subsection may reimburse themselves for their
13 seller's tax liability by separately stating that tax as an
14 additional charge, which may be stated in combination, in a
15 single amount, with State tax that sellers are required to
16 collect under the Use Tax Act, pursuant to any bracketed
17 schedules set forth by the Department.

18 (b) If a tax has been imposed under subsection (a), then a
19 service occupation tax must also be imposed at the same rate
20 upon all persons engaged, in the county, in the business of
21 making sales of service, who, as an incident to making those
22 sales of service, transfer tangible personal property within
23 the county as an incident to a sale of service.

24 This tax may not be imposed on sales of food for human
25 consumption that is to be consumed off the premises where it is
26 sold (other than alcoholic beverages, soft drinks, and food

1 prepared for immediate consumption) and prescription and
2 non-prescription medicines, drugs, medical appliances and
3 insulin, urine testing materials, syringes, and needles used by
4 diabetics.

5 The tax imposed under this subsection and all civil
6 penalties that may be assessed as an incident thereof shall be
7 collected and enforced by the Department and deposited into a
8 special fund created for that purpose. The Department has full
9 power to administer and enforce this subsection, to collect all
10 taxes and penalties due under this subsection, to dispose of
11 taxes and penalties so collected in the manner provided in this
12 subsection, and to determine all rights to credit memoranda
13 arising on account of the erroneous payment of a tax or penalty
14 under this subsection.

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 definition of terms, and (iii) employ the same modes of
21 procedure as are set forth in Sections 2 (except that that
22 reference to State in the definition of supplier maintaining a
23 place of business in this State means the county), 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 county), 5, 7,

1 8 (except that the jurisdiction to which the tax is a debt to
2 the extent indicated in that Section 8 is the county), 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 county), 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 by separately stating the tax as an
13 additional charge, which may be stated in combination, in a
14 single amount, with State tax that servicemen are authorized to
15 collect under the Service Use Tax Act, pursuant to any
16 bracketed schedules set forth by the Department.

17 (c) The tax under this Section may not be imposed until the
18 question of imposing the tax has been submitted to the electors
19 of the county at a regular election and approved by a majority
20 of the electors voting on the question. For all regular
21 elections held prior to August 23, 2011 (the effective date of
22 Public Act 97-542), upon a resolution by the county board or a
23 resolution by school district boards that represent at least
24 51% of the student enrollment within the county, the county
25 board must certify the question to the proper election
26 authority in accordance with the Election Code.

1 For all regular elections held prior to August 23, 2011
2 (the effective date of Public Act 97-542), the election
3 authority must submit the question in substantially the
4 following form:

5 Shall (name of county) be authorized to impose a
6 retailers' occupation tax and a service occupation tax
7 (commonly referred to as a "sales tax") at a rate of
8 (insert rate) to be used exclusively for school facility
9 purposes?

10 The election authority must record the votes as "Yes" or "No".

11 If a majority of the electors voting on the question vote
12 in the affirmative, then the county may, thereafter, impose the
13 tax.

14 For all regular elections held on or after August 23, 2011
15 (the effective date of Public Act 97-542), the regional
16 superintendent of schools for the county must, upon receipt of
17 a resolution or resolutions of school district boards that
18 represent more than 50% of the student enrollment within the
19 county, certify the question to the proper election authority
20 for submission to the electors of the county at the next
21 regular election at which the question lawfully may be
22 submitted to the electors, all in accordance with the Election
23 Code.

24 For all regular elections held on or after August 23, 2011
25 (the effective date of Public Act 97-542), the election
26 authority must submit the question in substantially the

1 following form:

2 Shall a retailers' occupation tax and a service
3 occupation tax (commonly referred to as a "sales tax") be
4 imposed in (name of county) at a rate of (insert rate) to
5 be used exclusively for school facility purposes?

6 The election authority must record the votes as "Yes" or "No".

7 If a majority of the electors voting on the question vote
8 in the affirmative, then the tax shall be imposed at the rate
9 set forth in the question.

10 For the purposes of this subsection (c), "enrollment" means
11 the head count of the students residing in the county on the
12 last school day of September of each year, which must be
13 reported on the Illinois State Board of Education Public School
14 Fall Enrollment/Housing Report.

15 (d) The Department shall immediately pay over to the State
16 Treasurer, ex officio, as trustee, all taxes and penalties
17 collected under this Section to be deposited into the School
18 Facility Occupation Tax Fund, which shall be an unappropriated
19 trust fund held outside the State treasury.

20 On or before the 25th day of each calendar month, the
21 Department shall prepare and certify to the Comptroller the
22 disbursement of stated sums of money to the regional
23 superintendents of schools in counties from which retailers or
24 servicemen have paid taxes or penalties to the Department
25 during the second preceding calendar month. The amount to be
26 paid to each regional superintendent of schools and disbursed

1 to him or her in accordance with Section 3-14.31 of the School
2 Code, is equal to the amount (not including credit memoranda)
3 collected from the county under this Section during the second
4 preceding calendar month by the Department, (i) less 2% of that
5 amount, which shall be deposited into the Tax Compliance and
6 Administration Fund and shall be used by the Department,
7 subject to appropriation, to cover the costs of the Department
8 in administering and enforcing the provisions of this Section,
9 on behalf of the county, (ii) plus an amount that the
10 Department determines is necessary to offset any amounts that
11 were erroneously paid to a different taxing body; (iii) less an
12 amount equal to the amount of refunds made during the second
13 preceding calendar month by the Department on behalf of the
14 county; and (iv) less any amount that the Department determines
15 is necessary to offset any amounts that were payable to a
16 different taxing body but were erroneously paid to the county.
17 When certifying the amount of a monthly disbursement to a
18 regional superintendent of schools under this Section, the
19 Department shall increase or decrease the amounts by an amount
20 necessary to offset any miscalculation of previous
21 disbursements within the previous 6 months from the time a
22 miscalculation is discovered.

23 Within 10 days after receipt by the Comptroller from the
24 Department of the disbursement certification to the regional
25 superintendents of the schools provided for in this Section,
26 the Comptroller shall cause the orders to be drawn for the

1 respective amounts in accordance with directions contained in
2 the certification.

3 If the Department determines that a refund should be made
4 under this Section to a claimant instead of issuing a credit
5 memorandum, then the Department shall notify the Comptroller,
6 who shall cause the order to be drawn for the amount specified
7 and to the person named in the notification from the
8 Department. The refund shall be paid by the Treasurer out of
9 the School Facility Occupation Tax Fund.

10 (e) For the purposes of determining the local governmental
11 unit whose tax is applicable, a retail sale by a producer of
12 coal or another mineral mined in Illinois is a sale at retail
13 at the place where the coal or other mineral mined in Illinois
14 is extracted from the earth. This subsection does not apply to
15 coal or another mineral when it is delivered or shipped by the
16 seller to the purchaser at a point outside Illinois so that the
17 sale is exempt under the United States Constitution as a sale
18 in interstate or foreign commerce.

19 (f) Nothing in this Section may be construed to authorize a
20 tax to be imposed upon the privilege of engaging in any
21 business that under the Constitution of the United States may
22 not be made the subject of taxation by this State.

23 (g) If a county board imposes a tax under this Section
24 pursuant to a referendum held before August 23, 2011 (the
25 effective date of Public Act 97-542) at a rate below the rate
26 set forth in the question approved by a majority of electors of

1 that county voting on the question as provided in subsection
2 (c), then the county board may, by ordinance, increase the rate
3 of the tax up to the rate set forth in the question approved by
4 a majority of electors of that county voting on the question as
5 provided in subsection (c). If a county board imposes a tax
6 under this Section pursuant to a referendum held before August
7 23, 2011 (the effective date of Public Act 97-542), then the
8 board may, by ordinance, discontinue or reduce the rate of the
9 tax. If a tax is imposed under this Section pursuant to a
10 referendum held on or after August 23, 2011 (the effective date
11 of Public Act 97-542), then the county board may reduce or
12 discontinue the tax, but only in accordance with subsection
13 (h-5) of this Section. If, however, a school board issues bonds
14 that are secured by the proceeds of the tax under this Section,
15 then the county board may not reduce the tax rate or
16 discontinue the tax if that rate reduction or discontinuance
17 would adversely affect the school board's ability to pay the
18 principal and interest on those bonds as they become due or
19 necessitate the extension of additional property taxes to pay
20 the principal and interest on those bonds. If the county board
21 reduces the tax rate or discontinues the tax, then a referendum
22 must be held in accordance with subsection (c) of this Section
23 in order to increase the rate of the tax or to reimpose the
24 discontinued tax.

25 Until January 1, 2014, the results of any election that
26 imposes, reduces, or discontinues a tax under this Section must

1 be certified by the election authority, and any ordinance that
2 increases or lowers the rate or discontinues the tax must be
3 certified by the county clerk and, in each case, filed with the
4 Illinois Department of Revenue either (i) on or before the
5 first day of April, whereupon the Department shall proceed to
6 administer and enforce the tax or change in the rate as of the
7 first day of July next following the filing; or (ii) on or
8 before the first day of October, whereupon the Department shall
9 proceed to administer and enforce the tax or change in the rate
10 as of the first day of January next following the filing.

11 Beginning January 1, 2014, the results of any election that
12 imposes, reduces, or discontinues a tax under this Section must
13 be certified by the election authority, and any ordinance that
14 increases or lowers the rate or discontinues the tax must be
15 certified by the county clerk and, in each case, filed with the
16 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 or change in the rate as of the
19 first day of July next following the filing; or (ii) on or
20 before the first day of October, whereupon the Department shall
21 proceed to administer and enforce the tax or change in the rate
22 as of the first day of January next following the filing.

23 (h) For purposes of this Section, "school facility
24 purposes" means (i) the acquisition, development,
25 construction, reconstruction, rehabilitation, improvement,
26 financing, architectural planning, and installation of capital

1 facilities consisting of buildings, structures, and durable
2 equipment and for the acquisition and improvement of real
3 property and interest in real property required, or expected to
4 be required, in connection with the capital facilities and (ii)
5 the payment of bonds or other obligations heretofore or
6 hereafter issued, including bonds or other obligations
7 heretofore or hereafter issued to refund or to continue to
8 refund bonds or other obligations issued, for school facility
9 purposes, provided that the taxes levied to pay those bonds are
10 abated by the amount of the taxes imposed under this Section
11 that are used to pay those bonds. "School-facility purposes"
12 also includes fire prevention, safety, energy conservation,
13 accessibility, school security, and specified repair purposes
14 set forth under Section 17-2.11 of the School Code.

15 (h-5) A county board in a county where a tax has been
16 imposed under this Section pursuant to a referendum held on or
17 after August 23, 2011 (the effective date of Public Act 97-542)
18 may, by ordinance or resolution, submit to the voters of the
19 county the question of reducing or discontinuing the tax. In
20 the ordinance or resolution, the county board shall certify the
21 question to the proper election authority in accordance with
22 the Election Code. The election authority must submit the
23 question in substantially the following form:

24 Shall the school facility retailers' occupation tax
25 and service occupation tax (commonly referred to as the
26 "school facility sales tax") currently imposed in (name of

1 county) at a rate of (insert rate) be (reduced to (insert
2 rate)) (discontinued)?

3 If a majority of the electors voting on the question vote in
4 the affirmative, then, subject to the provisions of subsection
5 (g) of this Section, the tax shall be reduced or discontinued
6 as set forth in the question.

7 (h-10) Notwithstanding any other provision of law, moneys
8 distributed to a regional superintendent of schools under this
9 Section must be used to pay existing debt service on bonds
10 issued by or on behalf of school districts under the
11 jurisdiction of that regional superintendent of schools prior
12 to being used to pay direct costs associated with school
13 facility purposes.

14 (i) This Section does not apply to Cook County.

15 (j) This Section may be cited as the County School Facility
16 Occupation Tax Law.

17 (Source: P.A. 98-584, eff. 8-27-13; 99-143, eff. 7-27-15;
18 99-217, eff. 7-31-15; 99-642, eff. 7-28-16.)

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