



Sen. Don Harmon

Filed: 5/17/2019

10100HB3244sam001

LRB101 06203 AWJ 60855 a

1 AMENDMENT TO HOUSE BILL 3244

2 AMENDMENT NO. _____. Amend House Bill 3244 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 tangible personal
4 property taxed at the 1% rate under the Retailers' Occupation
5 Tax Act. The Department of Revenue has full power to administer
6 and enforce this subsection, to collect all taxes and penalties
7 due under this subsection, to dispose of taxes and penalties so
8 collected in the manner provided in this subsection, and to
9 determine all rights to credit memoranda arising on account of
10 the erroneous payment of a tax or penalty under this
11 subsection. The Department shall deposit all taxes and
12 penalties collected under this subsection into a special fund
13 created for that purpose.

14 In the administration of and compliance with this
15 subsection, the Department and persons who are subject to this
16 subsection (i) have the same rights, remedies, privileges,
17 immunities, powers, and duties, (ii) are subject to the same
18 conditions, restrictions, limitations, penalties, and
19 definitions of terms, and (iii) shall employ the same modes of
20 procedure as are set forth in Sections 1 through 10, 2 through
21 2-70 (in respect to all provisions contained in those Sections
22 other than the State rate of tax), 2a through 2h, 3 (except as
23 to the disposition of taxes and penalties collected), 4, 5, 5a,
24 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 6d,
25 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation
26 Tax Act and all provisions of the Uniform Penalty and Interest

1 Act as if those provisions were set forth in this subsection.

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

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

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

20 This tax may not be imposed on tangible personal property
21 taxed at the 1% rate under the Service Occupation Tax Act.

22 The tax imposed under this subsection and all civil
23 penalties that may be assessed as an incident thereof shall be
24 collected and enforced by the Department and deposited into a
25 special fund created for that purpose. The Department has full
26 power to administer and enforce this subsection, to collect all

1 taxes and penalties due under this subsection, to dispose of
2 taxes and penalties so collected in the manner provided in this
3 subsection, and to determine all rights to credit memoranda
4 arising on account of the erroneous payment of a tax or penalty
5 under this subsection.

6 In the administration of and compliance with this
7 subsection, the Department and persons who are subject to this
8 subsection shall (i) have the same rights, remedies,
9 privileges, immunities, powers and duties, (ii) be subject to
10 the same conditions, restrictions, limitations, penalties and
11 definition of terms, and (iii) employ the same modes of
12 procedure as are set forth in Sections 2 (except that that
13 reference to State in the definition of supplier maintaining a
14 place of business in this State means the county), 2a through
15 2d, 3 through 3-50 (in respect to all provisions contained in
16 those Sections other than the State rate of tax), 4 (except
17 that the reference to the State shall be to the county), 5, 7,
18 8 (except that the jurisdiction to which the tax is a debt to
19 the extent indicated in that Section 8 is the county), 9
20 (except as to the disposition of taxes and penalties
21 collected), 10, 11, 12 (except the reference therein to Section
22 2b of the Retailers' Occupation Tax Act), 13 (except that any
23 reference to the State means the county), Section 15, 16, 17,
24 18, 19, and 20 of the Service Occupation Tax Act and all
25 provisions of the Uniform Penalty and Interest Act, as fully as
26 if those provisions were set forth herein.

1 Persons subject to any tax imposed under the authority
2 granted in this subsection may reimburse themselves for their
3 serviceman's tax liability by separately stating the tax as an
4 additional charge, which may be stated in combination, in a
5 single amount, with State tax that servicemen are authorized to
6 collect under the Service Use Tax Act, pursuant to any
7 bracketed schedules set forth by the Department.

8 (c) The tax under this Section may not be imposed until the
9 question of imposing the tax has been submitted to the electors
10 of the county at a regular election and approved by a majority
11 of the electors voting on the question. For all regular
12 elections held prior to August 23, 2011 (the effective date of
13 Public Act 97-542), upon a resolution by the county board or a
14 resolution by school district boards that represent at least
15 51% of the student enrollment within the county, the county
16 board must certify the question to the proper election
17 authority in accordance with the Election Code.

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

22 Shall (name of county) be authorized to impose a
23 retailers' occupation tax and a service occupation tax
24 (commonly referred to as a "sales tax") at a rate of
25 (insert rate) to be used exclusively for school facility
26 purposes?

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

2 If a majority of the electors voting on the question vote
3 in the affirmative, then the county may, thereafter, impose the
4 tax.

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

15 For all regular elections held on or after August 23, 2011
16 (the effective date of Public Act 97-542), the election
17 authority must submit the question in substantially the
18 following form:

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

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

24 If a majority of the electors voting on the question vote
25 in the affirmative, then the tax shall be imposed at the rate
26 set forth in the question.

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

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

11 On or before the 25th day of each calendar month, the
12 Department shall prepare and certify to the Comptroller the
13 disbursement of stated sums of money to the regional
14 superintendents of schools in counties from which retailers or
15 servicemen have paid taxes or penalties to the Department
16 during the second preceding calendar month. The amount to be
17 paid to each regional superintendent of schools and disbursed
18 to him or her in accordance with Section 3-14.31 of the School
19 Code, is equal to the amount (not including credit memoranda)
20 collected from the county under this Section during the second
21 preceding calendar month by the Department, (i) less 2% of that
22 amount, which shall be deposited into the Tax Compliance and
23 Administration Fund and shall be used by the Department,
24 subject to appropriation, to cover the costs of the Department
25 in administering and enforcing the provisions of this Section,
26 on behalf of the county, (ii) plus an amount that the

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

14 Within 10 days after receipt by the Comptroller from the
15 Department of the disbursement certification to the regional
16 superintendents of the schools provided for in this Section,
17 the Comptroller shall cause the orders to be drawn for the
18 respective amounts in accordance with directions contained in
19 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 School Facility Occupation Tax Fund.

1 (e) For the purposes of determining the local governmental
2 unit whose tax is applicable, a retail sale by a producer of
3 coal or another mineral mined in Illinois is a sale at retail
4 at the place where the coal or other mineral mined in Illinois
5 is extracted from the earth. This subsection does not apply to
6 coal or another mineral when it is delivered or shipped by the
7 seller to the purchaser at a point outside Illinois so that the
8 sale is exempt under the United States Constitution as a sale
9 in interstate or foreign commerce.

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

14 (g) If a county board imposes a tax under this Section
15 pursuant to a referendum held before August 23, 2011 (the
16 effective date of Public Act 97-542) at a rate below the rate
17 set forth in the question approved by a majority of electors of
18 that county voting on the question as provided in subsection
19 (c), then the county board may, by ordinance, increase the rate
20 of the tax up to the rate set forth in the question approved by
21 a majority of electors of that county voting on the question as
22 provided in subsection (c). If a county board imposes a tax
23 under this Section pursuant to a referendum held before August
24 23, 2011 (the effective date of Public Act 97-542), then the
25 board may, by ordinance, discontinue or reduce the rate of the
26 tax. If a tax is imposed under this Section pursuant to a

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

16 Until January 1, 2014, the results of any election that
17 imposes, reduces, or discontinues a tax under this Section must
18 be certified by the election authority, and any ordinance that
19 increases or lowers the rate or discontinues the tax must be
20 certified by the county clerk and, in each case, filed with the
21 Illinois Department of Revenue either (i) on or before the
22 first day of April, whereupon the Department shall proceed to
23 administer and enforce the tax or change in the rate as of the
24 first day of July next following the filing; or (ii) on or
25 before the first day of October, whereupon the Department shall
26 proceed to administer and enforce the tax or change in the rate

1 as of the first day of January next following the filing.

2 Beginning January 1, 2014, the results of any election that
3 imposes, reduces, or discontinues a tax under this Section must
4 be certified by the election authority, and any ordinance that
5 increases or lowers the rate or discontinues the tax must be
6 certified by the county clerk and, in each case, filed with the
7 Illinois Department of Revenue either (i) on or before the
8 first day of May, whereupon the Department shall proceed to
9 administer and enforce the tax or change in the rate as of the
10 first day of July next following the filing; or (ii) on or
11 before the first day of October, whereupon the Department shall
12 proceed to administer and enforce the tax or change in the rate
13 as of the first day of January next following the filing.

14 (h) For purposes of this Section, "school facility
15 purposes" means (i) the acquisition, development,
16 construction, reconstruction, rehabilitation, improvement,
17 financing, architectural planning, and installation of capital
18 facilities consisting of buildings, structures, and durable
19 equipment and for the acquisition and improvement of real
20 property and interest in real property required, or expected to
21 be required, in connection with the capital facilities and (ii)
22 the payment of bonds or other obligations heretofore or
23 hereafter issued, including bonds or other obligations
24 heretofore or hereafter issued to refund or to continue to
25 refund bonds or other obligations issued, for school facility
26 purposes, provided that the taxes levied to pay those bonds are

1 abated by the amount of the taxes imposed under this Section
2 that are used to pay those bonds. "School-facility purposes"
3 also includes: (i) fire prevention, safety, energy
4 conservation, accessibility, school security, and specified
5 repair purposes set forth under Section 17-2.11 of the School
6 Code; or (ii) school safety and security improvements, and all
7 equipment, fixtures, and renovations and improvements to
8 existing facilities necessary to accommodate the same, and
9 payments for or related to school resource officers and mental
10 health providers.

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

20 Shall the school facility retailers' occupation tax
21 and service occupation tax (commonly referred to as the
22 "school facility sales tax") currently imposed in (name of
23 county) at a rate of (insert rate) be (reduced to (insert
24 rate)) (discontinued)?

25 If a majority of the electors voting on the question vote in
26 the affirmative, then, subject to the provisions of subsection

1 (g) of this Section, the tax shall be reduced or discontinued
2 as set forth in the question.

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

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

6 (Source: P.A. 99-143, eff. 7-27-15; 99-217, eff. 7-31-15;
7 99-642, eff. 7-28-16; 100-1171, eff. 1-4-19.)

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