



Rep. Patrick J Verschoore

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1 AMENDMENT TO HOUSE BILL 410

2 AMENDMENT NO. _____. Amend House Bill 410, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Local Government Debt Reform Act is amended
6 by changing Section 15 as follows:

7 (30 ILCS 350/15) (from Ch. 17, par. 6915)

8 Sec. 15. Double-barrelled bonds. Whenever revenue bonds
9 have been authorized to be issued pursuant to applicable law or
10 whenever there exists for a governmental unit a revenue source,
11 the procedures set forth in this Section may be used by a
12 governing body. General obligation bonds may be issued in lieu
13 of such revenue bonds as authorized, and general obligation
14 bonds may be issued payable from any revenue source. Such
15 general obligation bonds may be referred to as "alternate
16 bonds". Alternate bonds may be issued without any referendum or

1 backdoor referendum except as provided in this Section, upon
2 the terms provided in Section 10 of this Act without reference
3 to other provisions of law, but only upon the conditions
4 provided in this Section. Alternate bonds shall not be regarded
5 as or included in any computation of indebtedness for the
6 purpose of any statutory provision or limitation except as
7 expressly provided in this Section.

8 Such conditions are:

9 (a) Alternate bonds shall be issued for a lawful corporate
10 purpose. If issued in lieu of revenue bonds, alternate bonds
11 shall be issued for the purposes for which such revenue bonds
12 shall have been authorized. If issued payable from a revenue
13 source in the manner hereinafter provided, which revenue source
14 is limited in its purposes or applications, then the alternate
15 bonds shall be issued only for such limited purposes or
16 applications. Alternate bonds may be issued payable from either
17 enterprise revenues or revenue sources, or both.

18 (b) Alternate bonds shall be subject to backdoor
19 referendum. The provisions of Section 5 of this Act shall apply
20 to such backdoor referendum, together with the provisions
21 hereof. The authorizing ordinance shall be published in a
22 newspaper of general circulation in the governmental unit.
23 Along with or as part of the authorizing ordinance, there shall
24 be published a notice of (1) the specific number of voters
25 required to sign a petition requesting that the issuance of the
26 alternate bonds be submitted to referendum, (2) the time when

1 such petition must be filed, (3) the date of the prospective
2 referendum, and (4), with respect to authorizing ordinances
3 adopted on or after January 1, 1991, a statement that
4 identifies any revenue source that will be used to pay debt
5 service on the alternate bonds. The clerk or secretary of the
6 governmental unit shall make a petition form available to
7 anyone requesting one. If no petition is filed with the clerk
8 or secretary within 30 days of publication of the authorizing
9 ordinance and notice, the alternate bonds shall be authorized
10 to be issued. But if within this 30 days period, a petition is
11 filed with such clerk or secretary signed by electors numbering
12 the greater of (i) 7.5% of the registered voters in the
13 governmental unit or (ii) 200 of those registered voters or 15%
14 of those registered voters, whichever is less, asking that the
15 issuance of such alternate bonds be submitted to referendum,
16 the clerk or secretary shall certify such question for
17 submission at an election held in accordance with the general
18 election law. The question on the ballot shall include a
19 statement of any revenue source that will be used to pay debt
20 service on the alternate bonds. The alternate bonds shall be
21 authorized to be issued if a majority of the votes cast on the
22 question at such election are in favor thereof provided that
23 notice of the bond referendum, if held before July 1, 1999, has
24 been given in accordance with the provisions of Section 12-5 of
25 the Election Code in effect at the time of the bond referendum,
26 at least 10 and not more than 45 days before the date of the

1 election, notwithstanding the time for publication otherwise
2 imposed by Section 12-5. Notices required in connection with
3 the submission of public questions on or after July 1, 1999
4 shall be as set forth in Section 12-5 of the Election Code.
5 Backdoor referendum proceedings for bonds and alternate bonds
6 to be issued in lieu of such bonds may be conducted at the same
7 time.

8 (c) To the extent payable from enterprise revenues, such
9 revenues shall have been determined by the governing body to be
10 sufficient to provide for or pay in each year to final maturity
11 of such alternate bonds all of the following: (1) costs of
12 operation and maintenance of the utility or enterprise, but not
13 including depreciation, (2) debt service on all outstanding
14 revenue bonds payable from such enterprise revenues, (3) all
15 amounts required to meet any fund or account requirements with
16 respect to such outstanding revenue bonds, (4) other
17 contractual or tort liability obligations, if any, payable from
18 such enterprise revenues, and (5) in each year, an amount not
19 less than 1.25 times debt service of all (i) alternate bonds
20 payable from such enterprise revenues previously issued and
21 outstanding and (ii) alternate bonds proposed to be issued. To
22 the extent payable from one or more revenue sources, such
23 sources shall have been determined by the governing body to
24 provide in each year, an amount not less than 1.25 times debt
25 service of all alternate bonds payable from such revenue
26 sources previously issued and outstanding and alternate bonds

1 proposed to be issued. The 1.25 figure in the preceding
2 sentence shall be reduced to 1.10 if the revenue source is a
3 governmental revenue source. The conditions enumerated in this
4 subsection (c) need not be met for that amount of debt service
5 provided for by the setting aside of proceeds of bonds or other
6 moneys at the time of the delivery of such bonds.
7 Notwithstanding any other provision of this Section, a backdoor
8 referendum is not required if the proceeds backing the debt are
9 realized from revenues obtained from the County School Facility
10 Occupation Tax Law under Section 5-1006.7 of the Counties Code.

11 (c-1) In the case of alternate bonds issued as variable
12 rate bonds (including refunding bonds), debt service shall be
13 projected based on the rate for the most recent date shown in
14 the 20 G.O. Bond Index of average municipal bond yields as
15 published in the most recent edition of The Bond Buyer
16 published in New York, New York (or any successor publication
17 or index, or if such publication or index is no longer
18 published, then any index of long-term municipal tax-exempt
19 bond yields selected by the governmental unit), as of the date
20 of determination referred to in subsection (c) of this Section.
21 Any interest or fees that may be payable to the provider of a
22 letter of credit, line of credit, surety bond, bond insurance,
23 or other credit enhancement relating to such alternate bonds
24 and any fees that may be payable to any remarketing agent need
25 not be taken into account for purposes of such projection. If
26 the governmental unit enters into an agreement in connection

1 with such alternate bonds at the time of issuance thereof
2 pursuant to which the governmental unit agrees for a specified
3 period of time to pay an amount calculated at an agreed-upon
4 rate or index based on a notional amount and the other party
5 agrees to pay the governmental unit an amount calculated at an
6 agreed-upon rate or index based on such notional amount,
7 interest shall be projected for such specified period of time
8 on the basis of the agreed-upon rate payable by the
9 governmental unit.

10 (d) The determination of the sufficiency of enterprise
11 revenues or a revenue source, as applicable, shall be supported
12 by reference to the most recent audit of the governmental unit,
13 which shall be for a fiscal year ending not earlier than 18
14 months previous to the time of issuance of the alternate bonds.
15 If such audit does not adequately show such enterprise revenues
16 or revenue source, as applicable, or if such enterprise
17 revenues or revenue source, as applicable, are shown to be
18 insufficient, then the determination of sufficiency shall be
19 supported by the report of an independent accountant or
20 feasibility analyst, the latter having a national reputation
21 for expertise in such matters, demonstrating the sufficiency of
22 such revenues and explaining, if appropriate, by what means the
23 revenues will be greater than as shown in the audit. Whenever
24 such sufficiency is demonstrated by reference to a schedule of
25 higher rates or charges for enterprise revenues or a higher tax
26 imposition for a revenue source, such higher rates, charges or

1 taxes shall have been properly imposed by an ordinance adopted
2 prior to the time of delivery of alternate bonds. The reference
3 to and acceptance of an audit or report, as the case may be,
4 and the determination of the governing body as to sufficiency
5 of enterprise revenues or a revenue source shall be conclusive
6 evidence that the conditions of this Section have been met and
7 that the alternate bonds are valid.

8 (e) The enterprise revenues or revenue source, as
9 applicable, shall be in fact pledged to the payment of the
10 alternate bonds; and the governing body shall covenant, to the
11 extent it is empowered to do so, to provide for, collect and
12 apply such enterprise revenues or revenue source, as
13 applicable, to the payment of the alternate bonds and the
14 provision of not less than an additional .25 (or .10 for
15 governmental revenue sources) times debt service. The pledge
16 and establishment of rates or charges for enterprise revenues,
17 or the imposition of taxes in a given rate or amount, as
18 provided in this Section for alternate bonds, shall constitute
19 a continuing obligation of the governmental unit with respect
20 to such establishment or imposition and a continuing
21 appropriation of the amounts received. All covenants relating
22 to alternate bonds and the conditions and obligations imposed
23 by this Section are enforceable by any bondholder of alternate
24 bonds affected, any taxpayer of the governmental unit, and the
25 People of the State of Illinois acting through the Attorney
26 General or any designee, and in the event that any such action

1 results in an order finding that the governmental unit has not
2 properly set rates or charges or imposed taxes to the extent it
3 is empowered to do so or collected and applied enterprise
4 revenues or any revenue source, as applicable, as required by
5 this Act, the plaintiff in any such action shall be awarded
6 reasonable attorney's fees. The intent is that such enterprise
7 revenues or revenue source, as applicable, shall be sufficient
8 and shall be applied to the payment of debt service on such
9 alternate bonds so that taxes need not be levied, or if levied
10 need not be extended, for such payment. Nothing in this Section
11 shall inhibit or restrict the authority of a governing body to
12 determine the lien priority of any bonds, including alternate
13 bonds, which may be issued with respect to any enterprise
14 revenues or revenue source.

15 In the event that alternate bonds shall have been issued
16 and taxes, other than a designated revenue source, shall have
17 been extended pursuant to the general obligation, full faith
18 and credit promise supporting such alternate bonds, then the
19 amount of such alternate bonds then outstanding shall be
20 included in the computation of indebtedness of the governmental
21 unit for purposes of all statutory provisions or limitations
22 until such time as an audit of the governmental unit shall show
23 that the alternate bonds have been paid from the enterprise
24 revenues or revenue source, as applicable, pledged thereto for
25 a complete fiscal year.

26 Alternate bonds may be issued to refund or advance refund

1 alternate bonds without meeting any of the conditions set forth
2 in this Section, except that the term of the refunding bonds
3 shall not be longer than the term of the refunded bonds and
4 that the debt service payable in any year on the refunding
5 bonds shall not exceed the debt service payable in such year on
6 the refunded bonds.

7 Once issued, alternate bonds shall be and forever remain
8 until paid or defeased the general obligation of the
9 governmental unit, for the payment of which its full faith and
10 credit are pledged, and shall be payable from the levy of taxes
11 as is provided in this Act for general obligation bonds.

12 The changes made by this amendatory Act of 1990 do not
13 affect the validity of bonds authorized before September 1,
14 1990.

15 (Source: P.A. 91-57, eff. 6-30-99; 91-493, eff. 8-13-99;
16 91-868, eff. 6-22-00; 92-879, eff. 1-13-03.)

17 Section 10. The Counties Code is amended by adding Section
18 5-1006.7 as follows:

19 (55 ILCS 5/5-1006.7 new)

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

21 (a) The county board of any county may impose a tax upon
22 all persons engaged in the business of selling tangible
23 personal property, other than personal property titled or
24 registered with an agency of this State's government, at retail

1 in the county on the gross receipts from the sales made in the
2 course of business to provide revenue to be used exclusively
3 for school facility purposes if a proposition for the tax has
4 been submitted to the electors of that county and approved by a
5 majority of those voting on the question as provided in
6 subsection (c). The tax under this Section may be imposed only
7 in one-quarter percent increments and may not exceed 1%.

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

23 In the administration of and compliance with this
24 subsection, the Department and persons who are subject to this
25 subsection (i) have the same rights, remedies, privileges,
26 immunities, powers, and duties, (ii) are subject to the same

1 conditions, restrictions, limitations, penalties, and
2 definitions of terms, and (iii) shall employ the same modes of
3 procedure as are set forth in Sections 1 through 1o, 2 through
4 2-70 (in respect to all provisions contained in those Sections
5 other than the State rate of tax), 2a through 2h, 3 (except as
6 to the disposition of taxes and penalties collected), 4, 5, 5a,
7 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
8 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act
9 and all provisions of the Uniform Penalty and Interest Act as
10 if those provisions were set forth in this subsection.

11 The certificate of registration that is issued by the
12 Department to a retailer under the Retailers' Occupation Tax
13 Act permits the retailer to engage in a business that is
14 taxable without registering separately with the Department
15 under an ordinance or resolution under this subsection.

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

23 (b) If a tax has been imposed under subsection (a), then a
24 service occupation tax must also be imposed at the same rate
25 upon all persons engaged, in the county, in the business of
26 making sales of service, who, as an incident to making those

1 sales of service, transfer tangible personal property within
2 the county as an incident to a sale of service.

3 This tax may not be imposed on sales of food for human
4 consumption that is to be consumed off the premises where it is
5 sold (other than alcoholic beverages, soft drinks, and food
6 prepared for immediate consumption) and prescription and
7 non-prescription medicines, drugs, medical appliances and
8 insulin, urine testing materials, syringes, and needles used by
9 diabetics.

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

20 In the administration of and compliance with this
21 subsection, the Department and persons who are subject to this
22 subsection shall (i) have the same rights, remedies,
23 privileges, immunities, power and duties, (ii) be subject to
24 the same conditions, restrictions, limitations, penalties and
25 definition of terms, and (iii) employ the same modes of
26 procedure as are set forth in Sections 2 (except that that

1 reference to State in the definition of supplier maintaining a
2 place of business in this State means the county), 2a through
3 2d , 3 through 3 - 50 (in respect to all provisions contained
4 in those Sections other than the State rate of tax), 4 (except
5 that the reference to the State shall be to the county), 5, 7,
6 8 (except that the jurisdiction to which the tax is a debt to
7 the extent indicated in that Section 8 is the county), 9
8 (except as to the disposition of taxes and penalties
9 collected), 10, 11, 12 (except the reference therein to Section
10 2b of the Retailers' Occupation Tax Act), 13, (except that any
11 reference to the State means the county), Section 15, 16, 17,
12 18, 19, and 20 of the Service Occupation Tax Act and all
13 provisions of the Uniform Penalty and Interest Act, as fully as
14 if those provisions were set forth herein.

15 Persons subject to any tax imposed under the authority
16 granted in this subsection may reimburse themselves for their
17 serviceman's tax liability by separately stating the tax as an
18 additional charge, which may be stated in combination, in a
19 single amount, with State tax that servicemen are authorized to
20 collect under the Service Use Tax Act, pursuant to any
21 bracketed schedules set forth by the Department.

22 (c) The tax under this Section may not be imposed until, by
23 ordinance or resolution of the county board, the question of
24 imposing the tax has been submitted to the electors of the
25 county at a regular election and approved by a majority of the
26 electors voting on the question. Upon a resolution by the

1 county board or a resolution by school district boards that
2 represent at least 51% of the student enrollment within the
3 county, the county board must certify the question to the
4 proper election authority in accordance with the Election Code.

5 The election authority must submit the question in
6 substantially the following form:

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

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

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

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

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

26 On or before the 25th day of each calendar month, the

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

1 disbursements within the previous 6 months from the time a
2 miscalculation is discovered.

3 Within 10 days after receipt by the Comptroller from the
4 Department of the disbursement certification to the regional
5 superintendents of the schools provided for in this Section,
6 the Comptroller shall cause the orders to be drawn for the
7 respective amounts in accordance with directions contained in
8 the certification.

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

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

25 (f) Nothing in this Section may be construed to authorize a
26 county board to impose a tax upon the privilege of engaging in

1 any business that under the Constitution of the United States
2 may not be made the subject of taxation by this State.

3 (g) If a county board imposes a tax under this Section,
4 then the board may, by ordinance, discontinue or reduce the
5 rate of the tax. If, however, a school board issues bonds that
6 are backed by the proceeds of the tax under this Section, then
7 the county board may not reduce the tax rate or discontinue the
8 tax if that rate reduction or discontinuance would inhibit the
9 school board's ability to pay the principal and interest on
10 those bonds as they become due. If the county board reduces the
11 tax rate or discontinues the tax, then a referendum must be
12 held in accordance with subsection (c) of this Section in order
13 to increase the rate of the tax or to reimpose the discontinued
14 tax.

15 The results of any election that authorizes a proposition
16 to impose a tax under this Section or to change the rate of the
17 tax along with an ordinance imposing the tax, or any ordinance
18 that lowers the rate or discontinues the tax, must be certified
19 by the county clerk and filed with the Illinois Department of
20 Revenue either (i) on or before the first day of April,
21 whereupon the Department shall proceed to administer and
22 enforce the tax or change in the rate as of the first day of
23 July next following the filing; or (ii) on or before the first
24 day of October, whereupon the Department shall proceed to
25 administer and enforce the tax or change in the rate as of the
26 first day of January next following the filing.

1 (h) For purposes of this Section, "school facility
2 purposes" means the acquisition, development, construction,
3 reconstruction, rehabilitation, improvement, financing,
4 architectural planning, and installation of capital facilities
5 consisting of buildings, structures, and durable equipment and
6 for the acquisition and improvement of real property and
7 interest in real property required, or expected to be required,
8 in connection with the capital facilities. "School-facility
9 purposes" also includes fire prevention, safety, energy
10 conservation, disabled accessibility, school security, and
11 specified repair purposes set forth under Section 17-2.11 of
12 the School Code.

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

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

16 Section 15. The School Code is amended changing Sections
17 10-22.36 and 17-2.11 and by adding Sections 3-14.31 and
18 10-20.40 as follows:

19 (105 ILCS 5/3-14.31 new)

20 Sec. 3-14.31. School facility occupation tax proceeds.

21 (a) Within 30 days after receiving any proceeds of a school
22 facility occupation tax under Section 5-1006.7 of the Counties
23 Code, each regional superintendent must disburse those
24 proceeds to each school district that is located in the county

1 in which the tax was collected.

2 (b) The proceeds must be disbursed on a an enrollment basis
3 and allocated based upon the number of each school district's
4 resident pupils that reside within the county collecting the
5 tax divided by the total number of students for all school
6 districts within the county.

7 (105 ILCS 5/10-20.40 new)

8 Sec. 10-20.40. School facility occupation tax fund. All
9 proceeds received by a school district from a distribution
10 under 3-14.31 must be maintained in a special fund known as the
11 school facility occupation tax fund. The district may use
12 moneys in that fund only for school-facility purposes, as that
13 term is defined under Section 5-1006.7 of the Counties Code.

14 (105 ILCS 5/10-22.36) (from Ch. 122, par. 10-22.36)

15 Sec. 10-22.36. Buildings for school purposes. To build or
16 purchase a building for school classroom or instructional
17 purposes upon the approval of a majority of the voters upon the
18 proposition at a referendum held for such purpose or in
19 accordance with Section 17-2.11. The board may initiate such
20 referendum by resolution. The board shall certify the
21 resolution and proposition to the proper election authority for
22 submission in accordance with the general election law.

23 The questions of building one or more new buildings for
24 school purposes or office facilities, and issuing bonds for the

1 purpose of borrowing money to purchase one or more buildings or
2 sites for such buildings or office sites, to build one or more
3 new buildings for school purposes or office facilities or to
4 make additions and improvements to existing school buildings,
5 may be combined into one or more propositions on the ballot.

6 Before erecting, or purchasing or remodeling such a
7 building the board shall submit the plans and specifications
8 respecting heating, ventilating, lighting, seating, water
9 supply, toilets and safety against fire to the regional
10 superintendent of schools having supervision and control over
11 the district, for approval in accordance with Section 2-3.12.

12 Notwithstanding any of the foregoing, no referendum shall
13 be required if the purchase, construction, or building of any
14 such building is completed (1) while the building is being
15 leased by the school district or (2) with the expenditure of
16 (A) funds derived from the sale or disposition of other
17 buildings, land, or structures of the school district or (B)
18 funds received (i) as a grant under the School Construction
19 Law, ~~or~~ (ii) as gifts or donations, provided that no funds to
20 complete such building, other than lease payments, are derived
21 from the district's bonded indebtedness or the tax levy of the
22 district, or (iii) from the County School Facility Occupation
23 Tax Law under Section 5-1006.7 of the Counties Code.

24 (Source: P.A. 92-127, eff. 1-1-02.)

25 (105 ILCS 5/17-2.11) (from Ch. 122, par. 17-2.11)

1 Sec. 17-2.11. School board power to levy a tax or to borrow
2 money and issue bonds for fire prevention, safety, energy
3 conservation, disabled accessibility, school security, and
4 specified repair purposes. Whenever, as a result of any lawful
5 order of any agency, other than a school board, having
6 authority to enforce any school building code applicable to any
7 facility that houses students, or any law or regulation for the
8 protection and safety of the environment, pursuant to the
9 Environmental Protection Act, any school district having a
10 population of less than 500,000 inhabitants is required to
11 alter or reconstruct any school building or permanent, fixed
12 equipment; or whenever any such district determines that it is
13 necessary for energy conservation purposes that any school
14 building or permanent, fixed equipment should be altered or
15 reconstructed and that such alterations or reconstruction will
16 be made with funds not necessary for the completion of approved
17 and recommended projects contained in any safety survey report
18 or amendments thereto authorized by Section 2-3.12 of this Act;
19 or whenever any such district determines that it is necessary
20 for disabled accessibility purposes and to comply with the
21 school building code that any school building or equipment
22 should be altered or reconstructed and that such alterations or
23 reconstruction will be made with funds not necessary for the
24 completion of approved and recommended projects contained in
25 any safety survey report or amendments thereto authorized under
26 Section 2-3.12 of this Act; or whenever any such district

1 determines that it is necessary for school security purposes
2 and the related protection and safety of pupils and school
3 personnel that any school building or property should be
4 altered or reconstructed or that security systems and equipment
5 (including but not limited to intercom, early detection and
6 warning, access control and television monitoring systems)
7 should be purchased and installed, and that such alterations,
8 reconstruction or purchase and installation of equipment will
9 be made with funds not necessary for the completion of approved
10 and recommended projects contained in any safety survey report
11 or amendment thereto authorized by Section 2-3.12 of this Act
12 and will deter and prevent unauthorized entry or activities
13 upon school property by unknown or dangerous persons, assure
14 early detection and advance warning of any such actual or
15 attempted unauthorized entry or activities and help assure the
16 continued safety of pupils and school staff if any such
17 unauthorized entry or activity is attempted or occurs; or if a
18 school district does not need funds for other fire prevention
19 and safety projects, including the completion of approved and
20 recommended projects contained in any safety survey report or
21 amendments thereto authorized by Section 2-3.12 of this Act,
22 and it is determined after a public hearing (which is preceded
23 by at least one published notice (i) occurring at least 7 days
24 prior to the hearing in a newspaper of general circulation
25 within the school district and (ii) setting forth the time,
26 date, place, and general subject matter of the hearing) that

1 there is a substantial, immediate, and otherwise unavoidable
2 threat to the health, safety, or welfare of pupils due to
3 disrepair of school sidewalks, playgrounds, parking lots, or
4 school bus turnarounds and repairs must be made: then in any
5 such event, such district may, by proper resolution, levy a tax
6 for the purpose of making such alteration or reconstruction,
7 based on a survey report by an architect or engineer licensed
8 in the State of Illinois, upon all the taxable property of the
9 district at the value as assessed by the Department of Revenue
10 at a rate not to exceed .05% per year for a period sufficient
11 to finance such alterations, repairs, or reconstruction, upon
12 the following conditions:

13 (a) When there are not sufficient funds available in
14 ~~either~~ the operations and maintenance fund of the district,
15 the school facility occupation tax fund of the district, or
16 the fire prevention and safety fund of the district as
17 determined by the district on the basis of regulations
18 adopted by the State Board of Education to make such
19 alterations, repairs, or reconstruction, or to purchase
20 and install such permanent fixed equipment so ordered or
21 determined as necessary. Appropriate school district
22 records shall be made available to the State Superintendent
23 of Education upon request to confirm such insufficiency.

24 (b) When a certified estimate of an architect or
25 engineer licensed in the State of Illinois stating the
26 estimated amount necessary to make the alterations or

1 repairs, or to purchase and install such equipment so
2 ordered has been secured by the district, and the estimate
3 has been approved by the regional superintendent of
4 schools, having jurisdiction of the district, and the State
5 Superintendent of Education. Approval shall not be granted
6 for any work that has already started without the prior
7 express authorization of the State Superintendent of
8 Education. If such estimate is not approved or denied
9 approval by the regional superintendent of schools within 3
10 months after the date on which it is submitted to him or
11 her, the school board of the district may submit such
12 estimate directly to the State Superintendent of Education
13 for approval or denial.

14 For purposes of this Section a school district may replace
15 a school building or build additions to replace portions of a
16 building when it is determined that the effectuation of the
17 recommendations for the existing building will cost more than
18 the replacement costs. Such determination shall be based on a
19 comparison of estimated costs made by an architect or engineer
20 licensed in the State of Illinois. The new building or addition
21 shall be equivalent in area (square feet) and comparable in
22 purpose and grades served and may be on the same site or
23 another site. Such replacement may only be done upon order of
24 the regional superintendent of schools and the approval of the
25 State Superintendent of Education.

26 The filing of a certified copy of the resolution levying

1 the tax when accompanied by the certificates of the regional
2 superintendent of schools and State Superintendent of
3 Education shall be the authority of the county clerk to extend
4 such tax.

5 The county clerk of the county in which any school district
6 levying a tax under the authority of this Section is located,
7 in reducing raised levies, shall not consider any such tax as a
8 part of the general levy for school purposes and shall not
9 include the same in the limitation of any other tax rate which
10 may be extended.

11 Such tax shall be levied and collected in like manner as
12 all other taxes of school districts, subject to the provisions
13 contained in this Section.

14 The tax rate limit specified in this Section may be
15 increased to .10% upon the approval of a proposition to effect
16 such increase by a majority of the electors voting on that
17 proposition at a regular scheduled election. Such proposition
18 may be initiated by resolution of the school board and shall be
19 certified by the secretary to the proper election authorities
20 for submission in accordance with the general election law.

21 When taxes are levied by any school district for fire
22 prevention, safety, energy conservation, and school security
23 purposes as specified in this Section, and the purposes for
24 which the taxes have been levied are accomplished and paid in
25 full, and there remain funds on hand in the Fire Prevention and
26 Safety Fund from the proceeds of the taxes levied, including

1 interest earnings thereon, the school board by resolution shall
2 use such excess and other board restricted funds excluding bond
3 proceeds and earnings from such proceeds (1) for other
4 authorized fire prevention, safety, energy conservation, and
5 school security purposes or (2) for transfer to the Operations
6 and Maintenance Fund for the purpose of abating an equal amount
7 of operations and maintenance purposes taxes. If any transfer
8 is made to the Operation and Maintenance Fund, the secretary of
9 the school board shall within 30 days notify the county clerk
10 of the amount of that transfer and direct the clerk to abate
11 the taxes to be extended for the purposes of operations and
12 maintenance authorized under Section 17-2 of this Act by an
13 amount equal to such transfer.

14 If the proceeds from the tax levy authorized by this
15 Section are insufficient to complete the work approved under
16 this Section, the school board is authorized to sell bonds
17 without referendum under the provisions of this Section in an
18 amount that, when added to the proceeds of the tax levy
19 authorized by this Section, will allow completion of the
20 approved work.

21 Such bonds shall bear interest at a rate not to exceed the
22 maximum rate authorized by law at the time of the making of the
23 contract, shall mature within 20 years from date, and shall be
24 signed by the president of the school board and the treasurer
25 of the school district.

26 In order to authorize and issue such bonds, the school

1 board shall adopt a resolution fixing the amount of bonds, the
2 date thereof, the maturities thereof, rates of interest
3 thereof, place of payment and denomination, which shall be in
4 denominations of not less than \$100 and not more than \$5,000,
5 and provide for the levy and collection of a direct annual tax
6 upon all the taxable property in the school district sufficient
7 to pay the principal and interest on such bonds to maturity.
8 Upon the filing in the office of the county clerk of the county
9 in which the school district is located of a certified copy of
10 the resolution, it is the duty of the county clerk to extend
11 the tax therefor in addition to and in excess of all other
12 taxes heretofore or hereafter authorized to be levied by such
13 school district.

14 After the time such bonds are issued as provided for by
15 this Section, if additional alterations or reconstructions are
16 required to be made because of surveys conducted by an
17 architect or engineer licensed in the State of Illinois, the
18 district may levy a tax at a rate not to exceed .05% per year
19 upon all the taxable property of the district or issue
20 additional bonds, whichever action shall be the most feasible.

21 This Section is cumulative and constitutes complete
22 authority for the issuance of bonds as provided in this Section
23 notwithstanding any other statute or law to the contrary.

24 With respect to instruments for the payment of money issued
25 under this Section either before, on, or after the effective
26 date of Public Act 86-004 (June 6, 1989), it is, and always has

1 been, the intention of the General Assembly (i) that the
2 Omnibus Bond Acts are, and always have been, supplementary
3 grants of power to issue instruments in accordance with the
4 Omnibus Bond Acts, regardless of any provision of this Act that
5 may appear to be or to have been more restrictive than those
6 Acts, (ii) that the provisions of this Section are not a
7 limitation on the supplementary authority granted by the
8 Omnibus Bond Acts, and (iii) that instruments issued under this
9 Section within the supplementary authority granted by the
10 Omnibus Bond Acts are not invalid because of any provision of
11 this Act that may appear to be or to have been more restrictive
12 than those Acts.

13 When the purposes for which the bonds are issued have been
14 accomplished and paid for in full and there remain funds on
15 hand from the proceeds of the bond sale and interest earnings
16 therefrom, the board shall, by resolution, use such excess
17 funds in accordance with the provisions of Section 10-22.14 of
18 this Act.

19 Whenever any tax is levied or bonds issued for fire
20 prevention, safety, energy conservation, and school security
21 purposes, such proceeds shall be deposited and accounted for
22 separately within the Fire Prevention and Safety Fund.

23 (Source: P.A. 88-251; 88-508; 88-628, eff. 9-9-94; 88-670, eff.
24 12-2-94; 89-235, eff. 8-4-95; 89-397, eff. 8-20-95.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".