



Sen. Mike Jacobs

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1 AMENDMENT TO SENATE BILL 835

2 AMENDMENT NO. _____. Amend Senate Bill 835 by replacing
3 everything after the enacting clause with the following:

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

6 (30 ILCS 350/15) (from Ch. 17, par. 6915)

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

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

7 Such conditions are:

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

17 (b) Alternate bonds shall be subject to backdoor
18 referendum. The provisions of Section 5 of this Act shall apply
19 to such backdoor referendum, together with the provisions
20 hereof. The authorizing ordinance shall be published in a
21 newspaper of general circulation in the governmental unit.
22 Along with or as part of the authorizing ordinance, there shall
23 be published a notice of (1) the specific number of voters
24 required to sign a petition requesting that the issuance of the
25 alternate bonds be submitted to referendum, (2) the time when
26 such petition must be filed, (3) the date of the prospective

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

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

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

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

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

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

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

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

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

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

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

25 Alternate bonds may be issued to refund or advance refund
26 alternate bonds without meeting any of the conditions set forth

1 in this Section, except that the term of the refunding bonds
2 shall not be longer than the term of the refunded bonds and
3 that the debt service payable in any year on the refunding
4 bonds shall not exceed the debt service payable in such year on
5 the refunded bonds.

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

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

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

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

18 (55 ILCS 5/5-1006.7 new)

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

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

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

7 This additional tax may not be imposed on the sale of food
8 for human consumption that is to be consumed off the premises
9 where it is sold (other than alcoholic beverages, soft drinks,
10 and food that has been prepared for immediate consumption) and
11 prescription and non-prescription medicines, drugs, medical
12 appliances and insulin, urine testing materials, syringes and
13 needles used by diabetics. The Department of Revenue 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. The Department shall deposit all taxes
20 and penalties collected under this subsection into a special
21 fund created for that purpose.

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

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

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

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

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

1 the county as an incident to a sale of service.

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

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

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

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

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

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

1 represent at least 51% of the student enrollment within the
2 county, the county board must certify the question to the
3 proper election authority in accordance with the Election Code.

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

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

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

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

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

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

25 On or before the 25th day of each calendar month, the
26 Department shall prepare and certify to the Comptroller the

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

1 miscalculation is discovered.

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

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

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

24 (f) Nothing in this Section may be construed to authorize a
25 county board to impose a tax upon the privilege of engaging in
26 any business that under the Constitution of the United States

1 may not be made the subject of taxation by this State.

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

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

26 (h) For purposes of this Section, "school facility

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

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

13 (j) This Section may be cited as the County School Facility
14 Occupation Tax Law."; and

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

18 (105 ILCS 5/3-14.31 new)

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

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

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

6 (105 ILCS 5/10-20.40 new)

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

13 (105 ILCS 5/10-22.36) (from Ch. 122, par. 10-22.36)

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

22 The questions of building one or more new buildings for
23 school purposes or office facilities, and issuing bonds for the
24 purpose of borrowing money to purchase one or more buildings or

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

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

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

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

24 (105 ILCS 5/17-2.11) (from Ch. 122, par. 17-2.11)

25 Sec. 17-2.11. School board power to levy a tax or to borrow

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

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

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

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

23 (b) When a certified estimate of an architect or
24 engineer licensed in the State of Illinois stating the
25 estimated amount necessary to make the alterations or
26 repairs, or to purchase and install such equipment so

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

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

25 The filing of a certified copy of the resolution levying
26 the tax when accompanied by the certificates of the regional

1 superintendent of schools and State Superintendent of
2 Education shall be the authority of the county clerk to extend
3 such tax.

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

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

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

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

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

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

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

25 In order to authorize and issue such bonds, the school
26 board shall adopt a resolution fixing the amount of bonds, the

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

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

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

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

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

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

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

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

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."