



Rep. Mike Fortner

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09700HB5362ham001

LRB097 17706 KMW 66296 a

1 AMENDMENT TO HOUSE BILL 5362

2 AMENDMENT NO. _____. Amend House Bill 5362 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 changing Sections 8-11-1.3, 8-11-1.4, and 8-11-1.5 as follows:

6 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

7 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
8 Occupation Tax Act. The corporate authorities of a non-home
9 rule municipality may impose a tax upon all persons engaged in
10 the business of selling tangible personal property, other than
11 on an item of tangible personal property which is titled and
12 registered by an agency of this State's Government, at retail
13 in the municipality for expenditure on public infrastructure or
14 for property tax relief or both as defined in Section 8-11-1.2
15 if approved by referendum as provided in Section 8-11-1.1, of
16 the gross receipts from such sales made in the course of such

1 business. If the tax is approved by referendum on or after July
2 14, 2010 (the effective date of Public Act 96-1057), the
3 corporate authorities of a non-home rule municipality may,
4 until December 31, 2020 ~~December 31, 2015~~, use the proceeds of
5 the tax for expenditure on municipal operations, in addition to
6 or in lieu of any expenditure on public infrastructure or for
7 property tax relief. The tax imposed may not be more than 1%
8 and may be imposed only in 1/4% increments. The tax may not be
9 imposed on the sale of food for human consumption that is to be
10 consumed off the premises where it is sold (other than
11 alcoholic beverages, soft drinks, and food that has been
12 prepared for immediate consumption) and prescription and
13 nonprescription medicines, drugs, medical appliances, and
14 insulin, urine testing materials, syringes, and needles used by
15 diabetics. The tax imposed by a municipality pursuant to this
16 Section and all civil penalties that may be assessed as an
17 incident thereof shall be collected and enforced by the State
18 Department of Revenue. The certificate of registration which is
19 issued by the Department to a retailer under the Retailers'
20 Occupation Tax Act shall permit such retailer to engage in a
21 business which is taxable under any ordinance or resolution
22 enacted pursuant to this Section without registering
23 separately with the Department under such ordinance or
24 resolution or under this Section. The Department shall have
25 full power to administer and enforce this Section; to collect
26 all taxes and penalties due hereunder; to dispose of taxes and

1 penalties so collected in the manner hereinafter provided, and
2 to determine all rights to credit memoranda, arising on account
3 of the erroneous payment of tax or penalty hereunder. In the
4 administration of, and compliance with, this Section, the
5 Department and persons who are subject to this Section shall
6 have the same rights, remedies, privileges, immunities, powers
7 and duties, and be subject to the same conditions,
8 restrictions, limitations, penalties and definitions of terms,
9 and employ the same modes of procedure, as are prescribed in
10 Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in
11 respect to all provisions therein other than the State rate of
12 tax), 2c, 3 (except as to the disposition of taxes and
13 penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
14 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the
15 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
16 Penalty and Interest Act as fully as if those provisions were
17 set forth herein.

18 No municipality may impose a tax under this Section unless
19 the municipality also imposes a tax at the same rate under
20 Section 8-11-1.4 of this Code.

21 Persons subject to any tax imposed pursuant to the
22 authority granted in this Section may reimburse themselves for
23 their seller's tax liability hereunder by separately stating
24 such tax as an additional charge, which charge may be stated in
25 combination, in a single amount, with State tax which sellers
26 are required to collect under the Use Tax Act, pursuant to such

1 bracket schedules as the Department may prescribe.

2 Whenever the Department determines that a refund should be
3 made under this Section to a claimant instead of issuing a
4 credit memorandum, the Department shall notify the State
5 Comptroller, who shall cause the order to be drawn for the
6 amount specified, and to the person named, in such notification
7 from the Department. Such refund shall be paid by the State
8 Treasurer out of the non-home rule municipal retailers'
9 occupation tax fund.

10 The Department shall forthwith pay over to the State
11 Treasurer, ex officio, as trustee, all taxes and penalties
12 collected hereunder.

13 As soon as possible after the first day of each month,
14 beginning January 1, 2011, upon certification of the Department
15 of Revenue, the Comptroller shall order transferred, and the
16 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
17 local sales tax increment, as defined in the Innovation
18 Development and Economy Act, collected under this Section
19 during the second preceding calendar month for sales within a
20 STAR bond district.

21 After the monthly transfer to the STAR Bonds Revenue Fund,
22 on or before the 25th day of each calendar month, the
23 Department shall prepare and certify to the Comptroller the
24 disbursement of stated sums of money to named municipalities,
25 the municipalities to be those from which retailers have paid
26 taxes or penalties hereunder to the Department during the

1 second preceding calendar month. The amount to be paid to each
2 municipality shall be the amount (not including credit
3 memoranda) collected hereunder during the second preceding
4 calendar month by the Department plus an amount the Department
5 determines is necessary to offset any amounts which were
6 erroneously paid to a different taxing body, and not including
7 an amount equal to the amount of refunds made during the second
8 preceding calendar month by the Department on behalf of such
9 municipality, and not including any amount which the Department
10 determines is necessary to offset any amounts which were
11 payable to a different taxing body but were erroneously paid to
12 the municipality, and not including any amounts that are
13 transferred to the STAR Bonds Revenue Fund. Within 10 days
14 after receipt, by the Comptroller, of the disbursement
15 certification to the municipalities, provided for in this
16 Section to be given to the Comptroller by the Department, the
17 Comptroller shall cause the orders to be drawn for the
18 respective amounts in accordance with the directions contained
19 in such certification.

20 For the purpose of determining the local governmental unit
21 whose tax is applicable, a retail sale, by a producer of coal
22 or other mineral mined in Illinois, is a sale at retail at the
23 place where the coal or other mineral mined in Illinois is
24 extracted from the earth. This paragraph does not apply to coal
25 or other mineral when it is delivered or shipped by the seller
26 to the purchaser at a point outside Illinois so that the sale

1 is exempt under the Federal Constitution as a sale in
2 interstate or foreign commerce.

3 Nothing in this Section shall be construed to authorize a
4 municipality to impose a tax upon the privilege of engaging in
5 any business which under the constitution of the United States
6 may not be made the subject of taxation by this State.

7 When certifying the amount of a monthly disbursement to a
8 municipality under this Section, the Department shall increase
9 or decrease such amount by an amount necessary to offset any
10 misallocation of previous disbursements. The offset amount
11 shall be the amount erroneously disbursed within the previous 6
12 months from the time a misallocation is discovered.

13 The Department of Revenue shall implement this amendatory
14 Act of the 91st General Assembly so as to collect the tax on
15 and after January 1, 2002.

16 As used in this Section, "municipal" and "municipality"
17 means a city, village or incorporated town, including an
18 incorporated town which has superseded a civil township.

19 This Section shall be known and may be cited as the
20 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

21 (Source: P.A. 96-939, eff. 6-24-10; 96-1057, eff. 7-14-10;
22 97-333, eff. 8-12-11.)

23 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

24 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation
25 Tax Act. The corporate authorities of a non-home rule

1 municipality may impose a tax upon all persons engaged, in such
2 municipality, in the business of making sales of service for
3 expenditure on public infrastructure or for property tax relief
4 or both as defined in Section 8-11-1.2 if approved by
5 referendum as provided in Section 8-11-1.1, of the selling
6 price of all tangible personal property transferred by such
7 servicemen either in the form of tangible personal property or
8 in the form of real estate as an incident to a sale of service.
9 If the tax is approved by referendum on or after July 14, 2010
10 (the effective date of Public Act 96-1057), the corporate
11 authorities of a non-home rule municipality may, until December
12 31, 2020 ~~December 31, 2015~~, use the proceeds of the tax for
13 expenditure on municipal operations, in addition to or in lieu
14 of any expenditure on public infrastructure or for property tax
15 relief. The tax imposed may not be more than 1% and may be
16 imposed only in 1/4% increments. The tax may not be imposed on
17 the sale of food for human consumption that is to be consumed
18 off the premises where it is sold (other than alcoholic
19 beverages, soft drinks, and food that has been prepared for
20 immediate consumption) and prescription and nonprescription
21 medicines, drugs, medical appliances, and insulin, urine
22 testing materials, syringes, and needles used by diabetics. The
23 tax imposed by a municipality pursuant to this Section and all
24 civil penalties that may be assessed as an incident thereof
25 shall be collected and enforced by the State Department of
26 Revenue. The certificate of registration which is issued by the

1 Department to a retailer under the Retailers' Occupation Tax
2 Act or under the Service Occupation Tax Act shall permit such
3 registrant to engage in a business which is taxable under any
4 ordinance or resolution enacted pursuant to this Section
5 without registering separately with the Department under such
6 ordinance or resolution or under this Section. The Department
7 shall have full power to administer and enforce this Section;
8 to collect all taxes and penalties due hereunder; to dispose of
9 taxes and penalties so collected in the manner hereinafter
10 provided, and to determine all rights to credit memoranda
11 arising on account of the erroneous payment of tax or penalty
12 hereunder. In the administration of, and compliance with, this
13 Section the Department and persons who are subject to this
14 Section shall have the same rights, remedies, privileges,
15 immunities, powers and duties, and be subject to the same
16 conditions, restrictions, limitations, penalties and
17 definitions of terms, and employ the same modes of procedure,
18 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
19 respect to all provisions therein other than the State rate of
20 tax), 4 (except that the reference to the State shall be to the
21 taxing municipality), 5, 7, 8 (except that the jurisdiction to
22 which the tax shall be a debt to the extent indicated in that
23 Section 8 shall be the taxing municipality), 9 (except as to
24 the disposition of taxes and penalties collected, and except
25 that the returned merchandise credit for this municipal tax may
26 not be taken against any State tax), 10, 11, 12 (except the

1 reference therein to Section 2b of the Retailers' Occupation
2 Tax Act), 13 (except that any reference to the State shall mean
3 the taxing municipality), the first paragraph of Section 15,
4 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
5 Section 3-7 of the Uniform Penalty and Interest Act, as fully
6 as if those provisions were set forth herein.

7 No municipality may impose a tax under this Section unless
8 the municipality also imposes a tax at the same rate under
9 Section 8-11-1.3 of this Code.

10 Persons subject to any tax imposed pursuant to the
11 authority granted in this Section may reimburse themselves for
12 their serviceman's tax liability hereunder by separately
13 stating such tax as an additional charge, which charge may be
14 stated in combination, in a single amount, with State tax which
15 servicemen are authorized to collect under the Service Use Tax
16 Act, pursuant to such bracket schedules as the Department may
17 prescribe.

18 Whenever the Department determines that a refund should be
19 made under this Section to a claimant instead of issuing credit
20 memorandum, the Department shall notify the State Comptroller,
21 who shall cause the order to be drawn for the amount specified,
22 and to the person named, in such notification from the
23 Department. Such refund shall be paid by the State Treasurer
24 out of the municipal retailers' occupation tax fund.

25 The Department shall forthwith pay over to the State
26 Treasurer, ex officio, as trustee, all taxes and penalties

1 collected hereunder.

2 As soon as possible after the first day of each month,
3 beginning January 1, 2011, upon certification of the Department
4 of Revenue, the Comptroller shall order transferred, and the
5 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
6 local sales tax increment, as defined in the Innovation
7 Development and Economy Act, collected under this Section
8 during the second preceding calendar month for sales within a
9 STAR bond district.

10 After the monthly transfer to the STAR Bonds Revenue Fund,
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 named municipalities,
14 the municipalities to be those from which suppliers and
15 servicemen have paid taxes or penalties hereunder to the
16 Department during the second preceding calendar month. The
17 amount to be paid to each municipality shall be the amount (not
18 including credit memoranda) collected hereunder during the
19 second preceding calendar month by the Department, and not
20 including an amount equal to the amount of refunds made during
21 the second preceding calendar month by the Department on behalf
22 of such municipality, and not including any amounts that are
23 transferred to the STAR Bonds Revenue Fund. Within 10 days
24 after receipt, by the Comptroller, of the disbursement
25 certification to the municipalities and the General Revenue
26 Fund, provided for in this Section to be given to the

1 Comptroller by the Department, the Comptroller shall cause the
2 orders to be drawn for the respective amounts in accordance
3 with the directions contained in such certification.

4 The Department of Revenue shall implement this amendatory
5 Act of the 91st General Assembly so as to collect the tax on
6 and after January 1, 2002.

7 Nothing in this Section shall be construed to authorize a
8 municipality to impose a tax upon the privilege of engaging in
9 any business which under the constitution of the United States
10 may not be made the subject of taxation by this State.

11 As used in this Section, "municipal" or "municipality"
12 means or refers to a city, village or incorporated town,
13 including an incorporated town which has superseded a civil
14 township.

15 This Section shall be known and may be cited as the
16 "Non-Home Rule Municipal Service Occupation Tax Act".

17 (Source: P.A. 96-939, eff. 6-24-10; 96-1057, eff. 7-14-10;
18 97-333, eff. 8-12-11.)

19 (65 ILCS 5/8-11-1.5) (from Ch. 24, par. 8-11-1.5)

20 Sec. 8-11-1.5. Non-Home Rule Municipal Use Tax Act. The
21 corporate authorities of a non-home rule municipality may
22 impose a tax upon the privilege of using, in such municipality,
23 any item of tangible personal property which is purchased at
24 retail from a retailer, and which is titled or registered with
25 an agency of this State's government, based on the selling

1 price of such tangible personal property, as "selling price" is
2 defined in the Use Tax Act, for expenditure on public
3 infrastructure or for property tax relief or both as defined in
4 Section 8-11-1.2, if approved by referendum as provided in
5 Section 8-11-1.1. If the tax is approved by referendum on or
6 after the effective date of this amendatory Act of the 96th
7 General Assembly, the corporate authorities of a non-home rule
8 municipality may, until December 31, 2020 ~~December 31, 2015~~,
9 use the proceeds of the tax for expenditure on municipal
10 operations, in addition to or in lieu of any expenditure on
11 public infrastructure or for property tax relief. The tax
12 imposed may not be more than 1% and may be imposed only in 1/4%
13 increments. Such tax shall be collected from persons whose
14 Illinois address for title or registration purposes is given as
15 being in such municipality. Such tax shall be collected by the
16 municipality imposing such tax. A non-home rule municipality
17 may not impose and collect the tax prior to January 1, 2002.

18 This Section shall be known and may be cited as the
19 "Non-Home Rule Municipal Use Tax Act".

20 (Source: P.A. 96-1057, eff. 7-14-10.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law."