



Sen. Michael Noland

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1 AMENDMENT TO SENATE BILL 3108

2 AMENDMENT NO. _____. Amend Senate Bill 3108 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Local Governmental and Governmental
5 Employees Tort Immunity Act is amended by changing Section
6 9-107 as follows:

7 (745 ILCS 10/9-107) (from Ch. 85, par. 9-107)

8 Sec. 9-107. Policy; tax levy.

9 (a) The General Assembly finds that the purpose of this
10 Section is to provide an extraordinary tax for funding expenses
11 relating to (i) tort liability, (ii) liability relating to
12 actions brought under the federal Comprehensive Environmental
13 Response, Compensation, and Liability Act of 1980 or the
14 Environmental Protection Act, but only until December 31, 2010,
15 (iii) insurance, and (iv) risk management programs. Thus, the
16 tax has been excluded from various limitations otherwise

1 applicable to tax levies. Notwithstanding the extraordinary
2 nature of the tax authorized by this Section, however, it has
3 become apparent that some units of local government are using
4 the tax revenue to fund expenses more properly paid from
5 general operating funds. These uses of the revenue are
6 inconsistent with the limited purpose of the tax authorization.

7 Therefore, the General Assembly declares, as a matter of
8 policy, that (i) the use of the tax revenue authorized by this
9 Section for purposes not expressly authorized under this Act is
10 improper and (ii) the provisions of this Section shall be
11 strictly construed consistent with this declaration and the
12 Act's express purposes.

13 (b) A local public entity may annually levy or have levied
14 on its behalf taxes upon all taxable property within its
15 territory at a rate that will produce a sum that will be
16 sufficient to: (i) pay the cost of insurance, individual or
17 joint self-insurance (including reserves thereon), including
18 all operating and administrative costs and expenses directly
19 associated therewith, claims services and risk management
20 directly attributable to loss prevention and loss reduction,
21 legal services directly attributable to the insurance,
22 self-insurance, or joint self-insurance program, and
23 educational, inspectional, and supervisory services directly
24 relating to loss prevention and loss reduction, participation
25 in a reciprocal insurer as provided in Sections 72, 76, and 81
26 of the Illinois Insurance Code, or participation in a

1 reciprocal insurer, all as provided in settlements or judgments
2 under Section 9-102, including all costs and reserves directly
3 attributable to being a member of an insurance pool, under
4 Section 9-103; (ii) pay the costs of and principal and interest
5 on bonds issued under Section 9-105; (iii) pay judgments and
6 settlements under Section 9-104 of this Act; (iv) discharge
7 obligations under Section 34-18.1 of the School Code; (v) pay
8 judgments and settlements under the federal Comprehensive
9 Environmental Response, Compensation, and Liability Act of
10 1980 and the Environmental Protection Act, but only until
11 December 31, 2010; (vi) pay the costs authorized by the
12 Metro-East Sanitary District Act of 1974 as provided in
13 subsection (a) of Section 5-1 of that Act (70 ILCS 2905/5-1);
14 and (vii) pay the cost of risk management programs. Provided it
15 complies with any other applicable statutory requirements, the
16 local public entity may self-insure and establish reserves for
17 expected losses for any property damage or for any liability or
18 loss for which the local public entity is authorized to levy or
19 have levied on its behalf taxes for the purchase of insurance
20 or the payment of judgments or settlements under this Section.
21 The decision of the board to establish a reserve shall be based
22 on reasonable actuarial or insurance underwriting evidence and
23 subject to the limits and reporting provisions in Section
24 9-103.

25 If a school district was a member of a
26 joint-self-health-insurance cooperative that had more

1 liability in outstanding claims than revenue to pay those
2 claims, the school board of that district may by resolution
3 make a one-time transfer from any fund in which tort immunity
4 moneys are maintained to the fund or funds from which payments
5 to a joint-self-health-insurance cooperative can be or have
6 been made of an amount not to exceed the amount of the
7 liability claim that the school district owes to the
8 joint-self-health-insurance cooperative or that the school
9 district paid within the 2 years immediately preceding the
10 effective date of this amendatory Act of the 92nd General
11 Assembly.

12 Funds raised pursuant to this Section shall only be used
13 for the purposes specified in this Act, including protection
14 against and reduction of any liability or loss described
15 hereinabove and under Federal or State common or statutory law,
16 the Workers' Compensation Act, the Workers' Occupational
17 Diseases Act, and the Unemployment Insurance Act or, in fire
18 districts subject to the Property Tax Extension Limitation Law,
19 the installation of sprinklers. Funds raised pursuant to this
20 Section may be invested in any manner in which other funds of
21 local public entities may be invested under Section 2 of the
22 Public Funds Investment Act. Interest on such funds shall be
23 used only for purposes for which the funds can be used or, if
24 surplus, must be used for abatement of property taxes levied by
25 the local taxing entity.

26 A local public entity may enter into intergovernmental

1 contracts with a term of not to exceed 12 years for the
2 provision of joint self-insurance which contracts may include
3 an obligation to pay a proportional share of a general
4 obligation or revenue bond or other debt instrument issued by a
5 local public entity which is a party to the intergovernmental
6 contract and is authorized by the terms of the contract to
7 issue the bond or other debt instrument. Funds due under such
8 contracts shall not be considered debt under any constitutional
9 or statutory limitation and the local public entity may levy or
10 have levied on its behalf taxes to pay for its proportional
11 share under the contract. Funds raised pursuant to
12 intergovernmental contracts for the provision of joint
13 self-insurance may only be used for the payment of any cost,
14 liability or loss against which a local public entity may
15 protect itself or self-insure pursuant to Section 9-103 or for
16 the payment of which such entity may levy a tax pursuant to
17 this Section, including tort judgments or settlements, costs
18 associated with the issuance, retirement or refinancing of the
19 bonds or other debt instruments, the repayment of the principal
20 or interest of the bonds or other debt instruments, the costs
21 of the administration of the joint self-insurance fund,
22 consultant, and risk care management programs or the costs of
23 insurance. Any surplus returned to the local public entity
24 under the terms of the intergovernmental contract shall be used
25 only for purposes set forth in subsection (a) of Section 9-103
26 and Section 9-107 or for abatement of property taxes levied by

1 the local taxing entity.

2 Any tax levied under this Section shall be levied and
3 collected in like manner with the general taxes of the entity
4 and shall be exclusive of and in addition to the amount of tax
5 that entity is now or may hereafter be authorized to levy for
6 general purposes under any statute which may limit the amount
7 of tax which that entity may levy for general purposes. The
8 county clerk of the county in which any part of the territory
9 of the local taxing entity is located, in reducing tax levies
10 under the provisions of any Act concerning the levy and
11 extension of taxes, shall not consider any tax provided for by
12 this Section as a part of the general tax levy for the purposes
13 of the entity nor include such tax within any limitation of the
14 percent of the assessed valuation upon which taxes are required
15 to be extended for such entity.

16 With respect to taxes levied under this Section, either
17 before, on, or after the effective date of this amendatory Act
18 of 1994:

19 (1) Those taxes are excepted from and shall not be
20 included within the rate limitation imposed by law on taxes
21 levied for general corporate purposes by the local public
22 entity authorized to levy a tax under this Section.

23 (2) Those taxes that a local public entity has levied
24 in reliance on this Section and that are excepted under
25 paragraph (1) from the rate limitation imposed by law on
26 taxes levied for general corporate purposes by the local

1 public entity are not invalid because of any provision of
2 the law authorizing the local public entity's tax levy for
3 general corporate purposes that may be construed or may
4 have been construed to restrict or limit those taxes
5 levied, and those taxes are hereby validated. This
6 validation of taxes levied applies to all cases pending on
7 or after the effective date of this amendatory Act of 1994.

8 (3) Paragraphs (1) and (2) do not apply to a hospital
9 organized under Article 170 or 175 of the Township Code,
10 under the Town Hospital Act, or under the Township
11 Non-Sectarian Hospital Act and do not give any authority to
12 levy taxes on behalf of such a hospital in excess of the
13 rate limitation imposed by law on taxes levied for general
14 corporate purposes. A hospital organized under Article 170
15 or 175 of the Township Code, under the Town Hospital Act,
16 or under the Township Non-Sectarian Hospital Act is not
17 prohibited from levying taxes in support of tort liability
18 bonds if the taxes do not cause the hospital's aggregate
19 tax rate from exceeding the rate limitation imposed by law
20 on taxes levied for general corporate purposes.

21 Revenues derived from such tax shall be paid to the
22 treasurer of the local taxing entity as collected and used for
23 the purposes of this Section and of Section 9-102, 9-103, 9-104
24 or 9-105, as the case may be. If payments on account of such
25 taxes are insufficient during any year to meet such purposes,
26 the entity may issue tax anticipation warrants against the

1 current tax levy in the manner provided by statute.

2 (Source: P.A. 95-244, eff. 8-17-07; 95-723, eff. 6-23-08.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".