



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3824

Introduced 10/5/2011, by Rep. Robert W. Pritchard

SYNOPSIS AS INTRODUCED:

745 ILCS 10/9-107

from Ch. 85, par. 9-107

Amends the Local Governmental and Governmental Employees Tort Immunity Act. Adds to the existing purposes (tort liability, insurance and risk management) for which an extraordinary tort liability tax levy may be imposed the installation and maintenance of sprinkler or other fire suppression systems that meet national standards and are certified by the local fire officials. Declares, as a matter of policy, that the use of tort liability tax revenue for the installation and maintenance of sprinkler or other fire suppression systems is appropriate because of the safety benefits of fire suppression systems, the associated reduction in potential exposure to tort liability claims, and the reduction in insurance costs achievable for facilities equipped with fire suppression systems. Adds to the existing purposes (insurance, specified types of judgments, settlements, and obligations, and risk management programs) for which a local public entity may annually levy: to pay the cost of the installation and maintenance of sprinkler or other fire suppression systems.

LRB097 13270 AJO 58139 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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, and (v) the
16 installation and maintenance of sprinkler or other fire
17 suppression systems that meet national standards and are
18 certified by the local fire officials. Thus, the tax has been
19 excluded from various limitations otherwise applicable to tax
20 levies.

21 The General Assembly declares, as a matter of policy, that
22 the use of the tax revenue authorized by this Section for the
23 installation and maintenance of sprinkler or other fire

1 suppression systems is appropriate because of the safety
2 benefits of fire suppression systems, the associated reduction
3 in potential exposure to tort liability claims, and the
4 reduction in insurance costs achievable if facilities are
5 equipped with fire suppression systems.

6 Notwithstanding the extraordinary nature of the tax
7 authorized by this Section, however, it has become apparent
8 that some units of local government are using the tax revenue
9 to fund expenses more properly paid from general operating
10 funds. These uses of the revenue are inconsistent with the
11 limited purpose of the tax authorization.

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

18 (b) A local public entity may annually levy or have levied
19 on its behalf taxes upon all taxable property within its
20 territory at a rate that will produce a sum that will be
21 sufficient to: (i) pay the cost of insurance, individual or
22 joint self-insurance (including reserves thereon), including
23 all operating and administrative costs and expenses directly
24 associated therewith, claims services and risk management
25 directly attributable to loss prevention and loss reduction,
26 legal services directly attributable to the insurance,

1 self-insurance, or joint self-insurance program, and
2 educational, inspectional, and supervisory services directly
3 relating to loss prevention and loss reduction, participation
4 in a reciprocal insurer as provided in Sections 72, 76, and 81
5 of the Illinois Insurance Code, or participation in a
6 reciprocal insurer, all as provided in settlements or judgments
7 under Section 9-102, including all costs and reserves directly
8 attributable to being a member of an insurance pool, under
9 Section 9-103; (ii) pay the costs of and principal and interest
10 on bonds issued under Section 9-105; (iii) pay judgments and
11 settlements under Section 9-104 of this Act; (iv) discharge
12 obligations under Section 34-18.1 of the School Code; (v) pay
13 judgments and settlements under the federal Comprehensive
14 Environmental Response, Compensation, and Liability Act of
15 1980 and the Environmental Protection Act, but only until
16 December 31, 2010; (vi) pay the costs authorized by the
17 Metro-East Sanitary District Act of 1974 as provided in
18 subsection (a) of Section 5-1 of that Act (70 ILCS 2905/5-1);
19 ~~and~~ (vii) pay the cost of risk management programs; and (viii)
20 pay the cost of the installation and maintenance of sprinkler
21 or other fire suppression systems that meet national standards
22 and are certified by local fire officials. Provided it complies
23 with any other applicable statutory requirements, the local
24 public entity may self-insure and establish reserves for
25 expected losses for any property damage or for any liability or
26 loss for which the local public entity is authorized to levy or

1 have levied on its behalf taxes for the purchase of insurance
2 or the payment of judgments or settlements under this Section.
3 The decision of the board to establish a reserve shall be based
4 on reasonable actuarial or insurance underwriting evidence and
5 subject to the limits and reporting provisions in Section
6 9-103.

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

20 Funds raised pursuant to this Section shall only be used
21 for the purposes specified in this Act, including protection
22 against and reduction of any liability or loss described
23 hereinabove and under Federal or State common or statutory law,
24 the Workers' Compensation Act, the Workers' Occupational
25 Diseases Act and the Unemployment Insurance Act. Funds raised
26 pursuant to this Section may be invested in any manner in which

1 other funds of local public entities may be invested under
2 Section 2 of the Public Funds Investment Act. Interest on such
3 funds shall be used only for purposes for which the funds can
4 be used or, if surplus, must be used for abatement of property
5 taxes levied by the local taxing entity.

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

1 of the administration of the joint self-insurance fund,
2 consultant, and risk care management programs or the costs of
3 insurance. Any surplus returned to the local public entity
4 under the terms of the intergovernmental contract shall be used
5 only for purposes set forth in subsection (a) of Section 9-103
6 and Section 9-107 or for abatement of property taxes levied by
7 the local taxing entity.

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

22 With respect to taxes levied under this Section, either
23 before, on, or after the effective date of this amendatory Act
24 of 1994:

- 25 (1) Those taxes are excepted from and shall not be
26 included within the rate limitation imposed by law on taxes

1 levied for general corporate purposes by the local public
2 entity authorized to levy a tax under this Section.

3 (2) Those taxes that a local public entity has levied
4 in reliance on this Section and that are excepted under
5 paragraph (1) from the rate limitation imposed by law on
6 taxes levied for general corporate purposes by the local
7 public entity are not invalid because of any provision of
8 the law authorizing the local public entity's tax levy for
9 general corporate purposes that may be construed or may
10 have been construed to restrict or limit those taxes
11 levied, and those taxes are hereby validated. This
12 validation of taxes levied applies to all cases pending on
13 or after the effective date of this amendatory Act of 1994.

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

1 Revenues derived from such tax shall be paid to the
2 treasurer of the local taxing entity as collected and used for
3 the purposes of this Section and of Section 9-102, 9-103, 9-104
4 or 9-105, as the case may be. If payments on account of such
5 taxes are insufficient during any year to meet such purposes,
6 the entity may issue tax anticipation warrants against the
7 current tax levy in the manner provided by statute.

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