



Rep. Carol A. Sente

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1 AMENDMENT TO HOUSE BILL 3859

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3859 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing  
5 Section 5-1014.3 as follows:

6 (55 ILCS 5/5-1014.3)

7 Sec. 5-1014.3. Agreements to share or rebate occupation  
8 taxes.

9 (a) On and after June 1, 2004, a county board shall not  
10 enter into any agreement to share or rebate any portion of  
11 retailers' occupation taxes generated by retail sales of  
12 tangible personal property if: (1) the tax on those retail  
13 sales, absent the agreement, would have been paid to another  
14 unit of local government; and (2) the retailer maintains,  
15 within that other unit of local government, a retail location  
16 from which the tangible personal property is delivered to

1 purchasers, or a warehouse from which the tangible personal  
2 property is delivered to purchasers. Any unit of local  
3 government denied retailers' occupation tax revenue because of  
4 an agreement that violates this Section may file an action in  
5 circuit court against only the county. Any agreement entered  
6 into prior to June 1, 2004 is not affected by this amendatory  
7 Act of the 93rd General Assembly. Any unit of local government  
8 that prevails in the circuit court action is entitled to  
9 damages in the amount of the tax revenue it was denied as a  
10 result of the agreement, statutory interest, costs, reasonable  
11 attorney's fees, and an amount equal to 50% of the tax.

12 (b) On and after the effective date of this amendatory Act  
13 of the 93rd General Assembly, a home rule unit shall not enter  
14 into any agreement prohibited by this Section. This Section is  
15 a denial and limitation of home rule powers and functions under  
16 subsection (g) of Section 6 of Article VII of the Illinois  
17 Constitution.

18 (c) Any county that enters into an agreement to share or  
19 rebate any portion of retailers' occupation taxes generated by  
20 retail sales of tangible personal property must complete and  
21 submit a report by electronic filing to the Department of  
22 Revenue within 30 days after the execution of the agreement.  
23 Any county that has entered into such an agreement before the  
24 effective date of this amendatory Act of the 97th General  
25 Assembly that has not been terminated or expired as of the  
26 effective date of this amendatory Act of the 97th General

1 Assembly shall submit a report with respect to the agreements  
2 within 90 days after the effective date of this amendatory Act  
3 of the 97th General Assembly.

4 (d) The report described in this Section shall be made on a  
5 form to be supplied by the Department of Revenue and shall  
6 contain the following:

7 (1) the names of the county and the business entering  
8 into the agreement;

9 (2) the location or locations of the business within  
10 the county;

11 (3) the form shall also contain a statement, to be  
12 answered in the affirmative or negative, as to whether or  
13 not the company maintains additional places of business in  
14 the State other than those described pursuant to paragraph  
15 (2);

16 (4) the terms of the agreement, including (i) the  
17 manner in which the amount of any retailers' occupation tax  
18 to be shared, rebated, or refunded is to be determined each  
19 year for the duration of the agreement, (ii) the duration  
20 of the agreement, and (iii) the name of any business who is  
21 not a party to the agreement but who directly or indirectly  
22 receives a share, refund, or rebate of the retailers'  
23 occupation tax; and

24 (5) a copy of the agreement to share or rebate any  
25 portion of retailers' occupation taxes generated by retail  
26 sales of tangible personal property.

1       An updated report must be filed by the county within 30  
2 days after the execution of any amendment made to an agreement.

3       Reports filed with the Department pursuant to this Section  
4 shall not constitute tax returns.

5       Any disclosure that is reported or released to the public  
6 shall be redacted by the Department of Revenue. The Department  
7 of Revenue shall redact the following information: sales  
8 figures, the amount of sales tax collected, and the amount of  
9 sales tax rebated.

10       (Source: P.A. 93-920, eff. 8-12-04.)

11       Section 10. The Illinois Municipal Code is amended by  
12 changing Section 8-11-21 as follows:

13       (65 ILCS 5/8-11-21)

14       Sec. 8-11-21. Agreements to share or rebate occupation  
15 taxes.

16       (a) On and after June 1, 2004, the corporate authorities of  
17 a municipality shall not enter into any agreement to share or  
18 rebate any portion of retailers' occupation taxes generated by  
19 retail sales of tangible personal property if: (1) the tax on  
20 those retail sales, absent the agreement, would have been paid  
21 to another unit of local government; and (2) the retailer  
22 maintains, within that other unit of local government, a retail  
23 location from which the tangible personal property is delivered  
24 to purchasers, or a warehouse from which the tangible personal

1 property is delivered to purchasers. Any unit of local  
2 government denied retailers' occupation tax revenue because of  
3 an agreement that violates this Section may file an action in  
4 circuit court against only the municipality. Any agreement  
5 entered into prior to June 1, 2004 is not affected by this  
6 amendatory Act of the 93rd General Assembly. Any unit of local  
7 government that prevails in the circuit court action is  
8 entitled to damages in the amount of the tax revenue it was  
9 denied as a result of the agreement, statutory interest, costs,  
10 reasonable attorney's fees, and an amount equal to 50% of the  
11 tax.

12 (b) On and after the effective date of this amendatory Act  
13 of the 93rd General Assembly, a home rule unit shall not enter  
14 into any agreement prohibited by this Section. This Section is  
15 a denial and limitation of home rule powers and functions under  
16 subsection (g) of Section 6 of Article VII of the Illinois  
17 Constitution.

18 (c) Any municipality that enters into an agreement to share  
19 or rebate any portion of retailers' occupation taxes generated  
20 by retail sales of tangible personal property must complete and  
21 submit a report by electronic filing to the Department of  
22 Revenue within 30 days after the execution of the agreement.  
23 Any municipality that has entered into such an agreement before  
24 the effective date of this amendatory Act of the 97th General  
25 Assembly that has not been terminated or expired as of the  
26 effective date of this amendatory Act of the 97th General

1 Assembly shall submit a report with respect to the agreements  
2 within 90 days after the effective date of this amendatory Act  
3 of the 97th General Assembly.

4 (d) The report described in this Section shall be made on a  
5 form to be supplied by the Department of Revenue and shall  
6 contain the following:

7 (1) the names of the municipality and the business  
8 entering into the agreement;

9 (2) the location or locations of the business within  
10 the municipality;

11 (3) the form shall also contain a statement, to be  
12 answered in the affirmative or negative, as to whether or  
13 not the company maintains additional places of business in  
14 the State other than those described pursuant to paragraph  
15 (2);

16 (4) the terms of the agreement, including (i) the  
17 manner in which the amount of any retailers' occupation tax  
18 to be shared, rebated, or refunded is to be determined each  
19 year for the duration of the agreement, (ii) the duration  
20 of the agreement, and (iii) the name of any business who is  
21 not a party to the agreement but who directly or indirectly  
22 receives a share, refund, or rebate of the retailers'  
23 occupation tax; and

24 (5) a copy of the agreement to share or rebate any  
25 portion of retailers' occupation taxes generated by retail  
26 sales of tangible personal property.

1       An updated report must be filed by the municipality within  
2 30 days after the execution of any amendment made to an  
3 agreement.

4       Reports filed with the Department pursuant to this Section  
5 shall not constitute tax returns.

6       Any disclosure that is reported or released to the public  
7 shall be redacted by the Department of Revenue. The Department  
8 of Revenue shall redact the following information: sales  
9 figures, the amount of sales tax collected, and the amount of  
10 sales tax rebated.

11       (Source: P.A. 93-920, eff. 8-12-04.)

12       Section 90. The State Mandates Act is amended by adding  
13 Section 8.36 as follows:

14       (30 ILCS 805/8.36 new)

15       Sec. 8.36. Exempt mandate. Notwithstanding Sections 6 and 8  
16 of this Act, no reimbursement by the State is required for the  
17 implementation of any mandate created by this amendatory Act of  
18 the 97th General Assembly."