



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5362

Introduced 2/15/2012, by Rep. Mike Fortner

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1.3	from Ch. 24, par. 8-11-1.3
65 ILCS 5/8-11-1.4	from Ch. 24, par. 8-11-1.4
65 ILCS 5/8-11-1.5	from Ch. 24, par. 8-11-1.5

Amends the Illinois Municipal Code. Provides that the corporate authorities of a non-home rule municipality may use (now, until December 31, 2015) the proceeds of a tax imposed under the Non-Home Rule Municipal Retailers' Occupation Tax Act, Non-Home Rule Municipal Service Occupation Tax Act, or the Non-Home Rule Municipal Use Tax Act for expenditure on municipal operations, in addition to or in lieu of any expenditure on public infrastructure or for property tax relief. Effective immediately.

LRB097 17706 KMW 62920 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

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  
17 business. If the tax is approved by referendum on or after July  
18 14, 2010 (the effective date of Public Act 96-1057), the  
19 corporate authorities of a non-home rule municipality may~~7~~  
20 ~~until December 31, 2015,~~ use the proceeds of the tax for  
21 expenditure on municipal operations, in addition to or in lieu  
22 of any expenditure on public infrastructure or for property tax  
23 relief. The tax imposed may not be more than 1% and may be

1 imposed only in 1/4% increments. The tax may not be imposed on  
2 the sale of food for human consumption that is to be consumed  
3 off the premises where it is sold (other than alcoholic  
4 beverages, soft drinks, and food that has been prepared for  
5 immediate consumption) and prescription and nonprescription  
6 medicines, drugs, medical appliances, and insulin, urine  
7 testing materials, syringes, and needles used by diabetics. The  
8 tax imposed by a municipality pursuant to this Section and all  
9 civil penalties that may be assessed as an incident thereof  
10 shall be collected and enforced by the State Department of  
11 Revenue. The certificate of registration which is issued by the  
12 Department to a retailer under the Retailers' Occupation Tax  
13 Act shall permit such retailer to engage in a business which is  
14 taxable under any ordinance or resolution enacted pursuant to  
15 this Section without registering separately with the  
16 Department under such ordinance or resolution or under this  
17 Section. The Department shall have full power to administer and  
18 enforce this Section; to collect all taxes and penalties due  
19 hereunder; to dispose of taxes and penalties so collected in  
20 the manner hereinafter provided, and to determine all rights to  
21 credit memoranda, arising on account of the erroneous payment  
22 of tax or penalty hereunder. In the administration of, and  
23 compliance with, this Section, the Department and persons who  
24 are subject to this Section shall have the same rights,  
25 remedies, privileges, immunities, powers and duties, and be  
26 subject to the same conditions, restrictions, limitations,

1 penalties and definitions of terms, and employ the same modes  
2 of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1d,  
3 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions  
4 therein other than the State rate of tax), 2c, 3 (except as to  
5 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, 12 and 13 of the Retailers' Occupation Tax Act and  
8 Section 3-7 of the Uniform Penalty and Interest Act as fully as  
9 if those provisions were set forth herein.

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

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

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

1 occupation tax fund.

2 The Department shall forthwith pay over to the State  
3 Treasurer, ex officio, as trustee, all taxes and penalties  
4 collected hereunder.

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

13 After the monthly transfer to the STAR Bonds Revenue Fund,  
14 on or before the 25th day of each calendar month, the  
15 Department shall prepare and certify to the Comptroller the  
16 disbursement of stated sums of money to named municipalities,  
17 the municipalities to be those from which retailers have paid  
18 taxes or penalties hereunder to the Department during the  
19 second preceding calendar month. The amount to be paid to each  
20 municipality shall be the amount (not including credit  
21 memoranda) collected hereunder during the second preceding  
22 calendar month by the Department plus an amount the Department  
23 determines is necessary to offset any amounts which were  
24 erroneously paid to a different taxing body, and not including  
25 an amount equal to the amount of refunds made during the second  
26 preceding calendar month by the Department on behalf of such

1 municipality, and not including any amount which the Department  
2 determines is necessary to offset any amounts which were  
3 payable to a different taxing body but were erroneously paid to  
4 the municipality, and not including any amounts that are  
5 transferred to the STAR Bonds Revenue Fund. Within 10 days  
6 after receipt, by the Comptroller, of the disbursement  
7 certification to the municipalities, provided for in this  
8 Section to be given to the Comptroller by the Department, the  
9 Comptroller shall cause the orders to be drawn for the  
10 respective amounts in accordance with the directions contained  
11 in such certification.

12 For the purpose of determining the local governmental unit  
13 whose tax is applicable, a retail sale, by a producer of coal  
14 or other mineral mined in Illinois, is a sale at retail at the  
15 place where the coal or other mineral mined in Illinois is  
16 extracted from the earth. This paragraph does not apply to coal  
17 or other mineral when it is delivered or shipped by the seller  
18 to the purchaser at a point outside Illinois so that the sale  
19 is exempt under the Federal Constitution as a sale in  
20 interstate or foreign commerce.

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

25 When certifying the amount of a monthly disbursement to a  
26 municipality under this Section, the Department shall increase

1 or decrease such amount by an amount necessary to offset any  
2 misallocation of previous disbursements. The offset amount  
3 shall be the amount erroneously disbursed within the previous 6  
4 months from the time a misallocation is discovered.

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

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

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

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

15 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

16 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation  
17 Tax Act. The corporate authorities of a non-home rule  
18 municipality may impose a tax upon all persons engaged, in such  
19 municipality, in the business of making sales of service for  
20 expenditure on public infrastructure or for property tax relief  
21 or both as defined in Section 8-11-1.2 if approved by  
22 referendum as provided in Section 8-11-1.1, of the selling  
23 price of all tangible personal property transferred by such  
24 servicemen either in the form of tangible personal property or  
25 in the form of real estate as an incident to a sale of service.

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



1 taxes and penalties so collected in the manner hereinafter  
2 provided, and to determine all rights to credit memoranda  
3 arising on account of the erroneous payment of tax or penalty  
4 hereunder. In the administration of, and compliance with, this  
5 Section the Department and persons who are subject to this  
6 Section shall have the same rights, remedies, privileges,  
7 immunities, powers and duties, and be subject to the same  
8 conditions, restrictions, limitations, penalties and  
9 definitions of terms, and employ the same modes of procedure,  
10 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in  
11 respect to all provisions therein other than the State rate of  
12 tax), 4 (except that the reference to the State shall be to the  
13 taxing municipality), 5, 7, 8 (except that the jurisdiction to  
14 which the tax shall be a debt to the extent indicated in that  
15 Section 8 shall be the taxing municipality), 9 (except as to  
16 the disposition of taxes and penalties collected, and except  
17 that the returned merchandise credit for this municipal tax may  
18 not be taken against any State tax), 10, 11, 12 (except the  
19 reference therein to Section 2b of the Retailers' Occupation  
20 Tax Act), 13 (except that any reference to the State shall mean  
21 the taxing municipality), the first paragraph of Section 15,  
22 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and  
23 Section 3-7 of the Uniform Penalty and Interest Act, as fully  
24 as if those provisions were set forth herein.

25 No municipality may impose a tax under this Section unless  
26 the municipality also imposes a tax at the same rate under

1 Section 8-11-1.3 of this Code.

2 Persons subject to any tax imposed pursuant to the  
3 authority granted in this Section may reimburse themselves for  
4 their serviceman's tax liability hereunder by separately  
5 stating such tax as an additional charge, which charge may be  
6 stated in combination, in a single amount, with State tax which  
7 servicemen are authorized to collect under the Service Use Tax  
8 Act, pursuant to such bracket schedules as the Department may  
9 prescribe.

10 Whenever the Department determines that a refund should be  
11 made under this Section to a claimant instead of issuing credit  
12 memorandum, the Department shall notify the State Comptroller,  
13 who shall cause the order to be drawn for the amount specified,  
14 and to the person named, in such notification from the  
15 Department. Such refund shall be paid by the State Treasurer  
16 out of the municipal retailers' occupation tax fund.

17 The Department shall forthwith pay over to the State  
18 Treasurer, ex officio, as trustee, all taxes and penalties  
19 collected hereunder.

20 As soon as possible after the first day of each month,  
21 beginning January 1, 2011, upon certification of the Department  
22 of Revenue, the Comptroller shall order transferred, and the  
23 Treasurer shall transfer, to the STAR Bonds Revenue Fund the  
24 local sales tax increment, as defined in the Innovation  
25 Development and Economy Act, collected under this Section  
26 during the second preceding calendar month for sales within a

1 STAR bond district.

2 After the monthly transfer to the STAR Bonds Revenue Fund,  
3 on or before the 25th day of each calendar month, the  
4 Department shall prepare and certify to the Comptroller the  
5 disbursement of stated sums of money to named municipalities,  
6 the municipalities to be those from which suppliers and  
7 servicemen have paid taxes or penalties hereunder to the  
8 Department during the second preceding calendar month. The  
9 amount to be paid to each municipality shall be the amount (not  
10 including credit memoranda) collected hereunder during the  
11 second preceding calendar month by the Department, and not  
12 including an amount equal to the amount of refunds made during  
13 the second preceding calendar month by the Department on behalf  
14 of such municipality, and not including any amounts that are  
15 transferred to the STAR Bonds Revenue Fund. Within 10 days  
16 after receipt, by the Comptroller, of the disbursement  
17 certification to the municipalities and the General Revenue  
18 Fund, provided for in this Section to be given to the  
19 Comptroller by the Department, the Comptroller shall cause the  
20 orders to be drawn for the respective amounts in accordance  
21 with the directions contained in such certification.

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

25 Nothing in this Section shall be construed to authorize a  
26 municipality to impose a tax upon the privilege of engaging in

1 any business which under the constitution of the United States  
2 may not be made the subject of taxation by this State.

3 As used in this Section, "municipal" or "municipality"  
4 means or refers to a city, village or incorporated town,  
5 including an incorporated town which has superseded a civil  
6 township.

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

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

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

12 Sec. 8-11-1.5. Non-Home Rule Municipal Use Tax Act. The  
13 corporate authorities of a non-home rule municipality may  
14 impose a tax upon the privilege of using, in such municipality,  
15 any item of tangible personal property which is purchased at  
16 retail from a retailer, and which is titled or registered with  
17 an agency of this State's government, based on the selling  
18 price of such tangible personal property, as "selling price" is  
19 defined in the Use Tax Act, for expenditure on public  
20 infrastructure or for property tax relief or both as defined in  
21 Section 8-11-1.2, if approved by referendum as provided in  
22 Section 8-11-1.1. If the tax is approved by referendum on or  
23 after the effective date of this amendatory Act of the 96th  
24 General Assembly, the corporate authorities of a non-home rule  
25 municipality may, ~~until December 31, 2015,~~ use the proceeds of

1 the tax for expenditure on municipal operations, in addition to  
2 or in lieu of any expenditure on public infrastructure or for  
3 property tax relief. The tax imposed may not be more than 1%  
4 and may be imposed only in 1/4% increments. Such tax shall be  
5 collected from persons whose Illinois address for title or  
6 registration purposes is given as being in such municipality.  
7 Such tax shall be collected by the municipality imposing such  
8 tax. A non-home rule municipality may not impose and collect  
9 the tax prior to January 1, 2002.

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

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

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.