



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4631

by Rep. Mike Smiddy

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1006.7

Amends the Counties Code. Increases the maximum rate for the county school facility occupation tax from 1% to 2%. Provides that, in addition to the uses currently provided for by law, proceeds from the tax may also be used for transportation costs and technology investments. Effective July 1, 2016.

LRB099 15747 HLH 40048 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Counties Code is amended by changing Section
5 5-1006.7 as follows:

6 (55 ILCS 5/5-1006.7)

7 Sec. 5-1006.7. School facility occupation taxes.

8 (a) In any county, a tax shall be imposed upon all persons
9 engaged in the business of selling tangible personal property,
10 other than personal property titled or registered with an
11 agency of this State's government, at retail in the county on
12 the gross receipts from the sales made in the course of
13 business to provide revenue to be used exclusively for school
14 facility purposes if a proposition for the tax has been
15 submitted to the electors of that county and approved by a
16 majority of those voting on the question as provided in
17 subsection (c). The tax under this Section shall be imposed
18 only in one-quarter percent increments and may not exceed 2%
19 ~~1%~~.

20 This additional tax may not be imposed on the sale of food
21 for human consumption that is to be consumed off the premises
22 where it is sold (other than alcoholic beverages, soft drinks,
23 and food that has been prepared for immediate consumption) and

1 prescription and non-prescription medicines, drugs, medical
2 appliances and insulin, urine testing materials, syringes and
3 needles used by diabetics. The Department of Revenue has full
4 power to administer and enforce this subsection, to collect all
5 taxes and penalties due under this subsection, to dispose of
6 taxes and penalties so collected in the manner provided in this
7 subsection, and to determine all rights to credit memoranda
8 arising on account of the erroneous payment of a tax or penalty
9 under this subsection. The Department shall deposit all taxes
10 and penalties collected under this subsection into a special
11 fund created for that purpose.

12 In the administration of and compliance with this
13 subsection, the Department and persons who are subject to this
14 subsection (i) have the same rights, remedies, privileges,
15 immunities, powers, and duties, (ii) are subject to the same
16 conditions, restrictions, limitations, penalties, and
17 definitions of terms, and (iii) shall employ the same modes of
18 procedure as are set forth in Sections 1 through 10, 2 through
19 2-70 (in respect to all provisions contained in those Sections
20 other than the State rate of tax), 2a through 2h, 3 (except as
21 to the disposition of taxes and penalties collected), 4, 5, 5a,
22 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 6d,
23 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation
24 Tax Act and all provisions of the Uniform Penalty and Interest
25 Act as if those provisions were set forth in this subsection.

26 The certificate of registration that is issued by the

1 Department to a retailer under the Retailers' Occupation Tax
2 Act permits the retailer to engage in a business that is
3 taxable without registering separately with the Department
4 under an ordinance or resolution under this subsection.

5 Persons subject to any tax imposed under the authority
6 granted in this subsection may reimburse themselves for their
7 seller's tax liability by separately stating that tax as an
8 additional charge, which may be stated in combination, in a
9 single amount, with State tax that sellers are required to
10 collect under the Use Tax Act, pursuant to any bracketed
11 schedules set forth by the Department.

12 (b) If a tax has been imposed under subsection (a), then a
13 service occupation tax must also be imposed at the same rate
14 upon all persons engaged, in the county, in the business of
15 making sales of service, who, as an incident to making those
16 sales of service, transfer tangible personal property within
17 the county as an incident to a sale of service.

18 This tax may not be imposed on sales of food for human
19 consumption that is to be consumed off the premises where it is
20 sold (other than alcoholic beverages, soft drinks, and food
21 prepared for immediate consumption) and prescription and
22 non-prescription medicines, drugs, medical appliances and
23 insulin, urine testing materials, syringes, and needles used by
24 diabetics.

25 The tax imposed under this subsection and all civil
26 penalties that may be assessed as an incident thereof shall be

1 collected and enforced by the Department and deposited into a
2 special fund created for that purpose. The Department has full
3 power to administer and enforce this subsection, to collect all
4 taxes and penalties due under this subsection, to dispose of
5 taxes and penalties so collected in the manner provided in this
6 subsection, and to determine all rights to credit memoranda
7 arising on account of the erroneous payment of a tax or penalty
8 under this subsection.

9 In the administration of and compliance with this
10 subsection, the Department and persons who are subject to this
11 subsection shall (i) have the same rights, remedies,
12 privileges, immunities, powers and duties, (ii) be subject to
13 the same conditions, restrictions, limitations, penalties and
14 definition of terms, and (iii) employ the same modes of
15 procedure as are set forth in Sections 2 (except that that
16 reference to State in the definition of supplier maintaining a
17 place of business in this State means the county), 2a through
18 2d, 3 through 3-50 (in respect to all provisions contained in
19 those Sections other than the State rate of tax), 4 (except
20 that the reference to the State shall be to the county), 5, 7,
21 8 (except that the jurisdiction to which the tax is a debt to
22 the extent indicated in that Section 8 is the county), 9
23 (except as to the disposition of taxes and penalties
24 collected), 10, 11, 12 (except the reference therein to Section
25 2b of the Retailers' Occupation Tax Act), 13 (except that any
26 reference to the State means the county), Section 15, 16, 17,

1 18, 19, and 20 of the Service Occupation Tax Act and all
2 provisions of the Uniform Penalty and Interest Act, as fully as
3 if those provisions were set forth herein.

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

11 (c) The tax under this Section may not be imposed until the
12 question of imposing the tax has been submitted to the electors
13 of the county at a regular election and approved by a majority
14 of the electors voting on the question. For all regular
15 elections held prior to August 23, 2011 (the effective date of
16 Public Act 97-542) ~~this amendatory Act of the 97th General~~
17 ~~Assembly~~, upon a resolution by the county board or a resolution
18 by school district boards that represent at least 51% of the
19 student enrollment within the county, the county board must
20 certify the question to the proper election authority in
21 accordance with the Election Code.

22 For all regular elections held prior to August 23, 2011
23 (the effective date of Public Act 97-542) ~~this amendatory Act~~
24 ~~of the 97th General Assembly~~, the election authority must
25 submit the question in substantially the following form:

26 Shall (name of county) be authorized to impose a

1 retailers' occupation tax and a service occupation tax
2 (commonly referred to as a "sales tax") at a rate of
3 (insert rate) to be used exclusively for school facility
4 purposes?

5 The election authority must record the votes as "Yes" or "No".

6 If a majority of the electors voting on the question vote
7 in the affirmative, then the county may, thereafter, impose the
8 tax.

9 For all regular elections held on or after August 23, 2011
10 (the effective date of Public Act 97-542) ~~this amendatory Act~~
11 ~~of the 97th General Assembly~~, the regional superintendent of
12 schools for the county must, upon receipt of a resolution or
13 resolutions of school district boards that represent more than
14 50% of the student enrollment within the county, certify the
15 question to the proper election authority for submission to the
16 electors of the county at the next regular election at which
17 the question lawfully may be submitted to the electors, all in
18 accordance with the Election Code.

19 For all regular elections held on or after August 23, 2011
20 (the effective date of Public Act 97-542) ~~this amendatory Act~~
21 ~~of the 97th General Assembly~~, the election authority must
22 submit the question in substantially the following form:

23 Shall a retailers' occupation tax and a service
24 occupation tax (commonly referred to as a "sales tax") be
25 imposed in (name of county) at a rate of (insert rate) to
26 be used exclusively for school facility purposes?

1 The election authority must record the votes as "Yes" or "No".

2 If a majority of the electors voting on the question vote
3 in the affirmative, then the tax shall be imposed at the rate
4 set forth in the question.

5 For the purposes of this subsection (c), "enrollment" means
6 the head count of the students residing in the county on the
7 last school day of September of each year, which must be
8 reported on the Illinois State Board of Education Public School
9 Fall Enrollment/Housing Report.

10 (d) The Department shall immediately pay over to the State
11 Treasurer, ex officio, as trustee, all taxes and penalties
12 collected under this Section to be deposited into the School
13 Facility Occupation Tax Fund, which shall be an unappropriated
14 trust fund held outside the State treasury.

15 On or before the 25th day of each calendar month, the
16 Department shall prepare and certify to the Comptroller the
17 disbursement of stated sums of money to the regional
18 superintendents of schools in counties from which retailers or
19 servicemen have paid taxes or penalties to the Department
20 during the second preceding calendar month. The amount to be
21 paid to each regional superintendent of schools and disbursed
22 to him or her in accordance with Section 3-14.31 of the School
23 Code, is equal to the amount (not including credit memoranda)
24 collected from the county under this Section during the second
25 preceding calendar month by the Department, (i) less 2% of that
26 amount, which shall be deposited into the Tax Compliance and

1 Administration Fund and shall be used by the Department,
2 subject to appropriation, to cover the costs of the Department
3 in administering and enforcing the provisions of this Section,
4 on behalf of the county, (ii) plus an amount that the
5 Department determines is necessary to offset any amounts that
6 were erroneously paid to a different taxing body; (iii) less an
7 amount equal to the amount of refunds made during the second
8 preceding calendar month by the Department on behalf of the
9 county; and (iv) less any amount that the Department determines
10 is necessary to offset any amounts that were payable to a
11 different taxing body but were erroneously paid to the county.
12 When certifying the amount of a monthly disbursement to a
13 regional superintendent of schools under this Section, the
14 Department shall increase or decrease the amounts by an amount
15 necessary to offset any miscalculation of previous
16 disbursements within the previous 6 months from the time a
17 miscalculation is discovered.

18 Within 10 days after receipt by the Comptroller from the
19 Department of the disbursement certification to the regional
20 superintendents of the schools provided for in this Section,
21 the Comptroller shall cause the orders to be drawn for the
22 respective amounts in accordance with directions contained in
23 the certification.

24 If the Department determines that a refund should be made
25 under this Section to a claimant instead of issuing a credit
26 memorandum, then the Department shall notify the Comptroller,

1 who shall cause the order to be drawn for the amount specified
2 and to the person named in the notification from the
3 Department. The refund shall be paid by the Treasurer out of
4 the School Facility Occupation Tax Fund.

5 (e) For the purposes of determining the local governmental
6 unit whose tax is applicable, a retail sale by a producer of
7 coal or another mineral mined in Illinois is a sale at retail
8 at the place where the coal or other mineral mined in Illinois
9 is extracted from the earth. This subsection does not apply to
10 coal or another mineral when it is delivered or shipped by the
11 seller to the purchaser at a point outside Illinois so that the
12 sale is exempt under the United States Constitution as a sale
13 in interstate or foreign commerce.

14 (f) Nothing in this Section may be construed to authorize a
15 tax to be imposed upon the privilege of engaging in any
16 business that under the Constitution of the United States may
17 not be made the subject of taxation by this State.

18 (g) If a county board imposes a tax under this Section
19 pursuant to a referendum held before August 23, 2011 (the
20 effective date of Public Act 97-542) ~~this amendatory Act of the~~
21 ~~97th General Assembly~~ at a rate below the rate set forth in the
22 question approved by a majority of electors of that county
23 voting on the question as provided in subsection (c), then the
24 county board may, by ordinance, increase the rate of the tax up
25 to the rate set forth in the question approved by a majority of
26 electors of that county voting on the question as provided in

1 subsection (c). If a county board imposes a tax under this
2 Section pursuant to a referendum held before August 23, 2011
3 (the effective date of Public Act 97-542) ~~this amendatory Act~~
4 ~~of the 97th General Assembly~~, then the board may, by ordinance,
5 discontinue or reduce the rate of the tax. If a tax is imposed
6 under this Section pursuant to a referendum held on or after
7 August 23, 2011 (the effective date of Public Act 97-542) ~~this~~
8 ~~amendatory Act of the 97th General Assembly~~, then the county
9 board may reduce or discontinue the tax, but only in accordance
10 with subsection (h-5) of this Section. If, however, a school
11 board issues bonds that are secured by the proceeds of the tax
12 under this Section, then the county board may not reduce the
13 tax rate or discontinue the tax if that rate reduction or
14 discontinuance would adversely affect the school board's
15 ability to pay the principal and interest on those bonds as
16 they become due or necessitate the extension of additional
17 property taxes to pay the principal and interest on those
18 bonds. If the county board reduces the tax rate or discontinues
19 the tax, then a referendum must be held in accordance with
20 subsection (c) of this Section in order to increase the rate of
21 the tax or to reimpose the discontinued tax.

22 Until January 1, 2014, the results of any election that
23 imposes, reduces, or discontinues a tax under this Section must
24 be certified by the election authority, and any ordinance that
25 increases or lowers the rate or discontinues the tax must be
26 certified by the county clerk and, in each case, filed with the

1 Illinois Department of Revenue either (i) on or before the
2 first day of April, whereupon the Department shall proceed to
3 administer and enforce the tax or change in the rate as of the
4 first day of July next following the filing; or (ii) on or
5 before the first day of October, whereupon the Department shall
6 proceed to administer and enforce the tax or change in the rate
7 as of the first day of January next following the filing.

8 Beginning January 1, 2014, the results of any election that
9 imposes, reduces, or discontinues a tax under this Section must
10 be certified by the election authority, and any ordinance that
11 increases or lowers the rate or discontinues the tax must be
12 certified by the county clerk and, in each case, filed with the
13 Illinois Department of Revenue either (i) on or before the
14 first day of May, whereupon the Department shall proceed to
15 administer and enforce the tax or change in the rate as of the
16 first day of July next following the filing; or (ii) on or
17 before the first day of October, whereupon the Department shall
18 proceed to administer and enforce the tax or change in the rate
19 as of the first day of January next following the filing.

20 (h) For purposes of this Section, "school facility
21 purposes" means (i) the acquisition, development,
22 construction, reconstruction, rehabilitation, improvement,
23 financing, architectural planning, and installation of capital
24 facilities consisting of buildings, structures, and durable
25 equipment and for the acquisition and improvement of real
26 property and interest in real property required, or expected to

1 be required, in connection with the capital facilities and (ii)
2 the payment of bonds or other obligations heretofore or
3 hereafter issued, including bonds or other obligations
4 heretofore or hereafter issued to refund or to continue to
5 refund bonds or other obligations issued, for school facility
6 purposes, provided that the taxes levied to pay those bonds are
7 abated by the amount of the taxes imposed under this Section
8 that are used to pay those bonds. "School-facility purposes"
9 also includes fire prevention, safety, energy conservation,
10 including, but not limited to, energy efficient heating and
11 cooling systems, accessibility, school security,
12 transportation costs, technology investments, and specified
13 repair purposes set forth under Section 17-2.11 of the School
14 Code.

15 (h-5) A county board in a county where a tax has been
16 imposed under this Section pursuant to a referendum held on or
17 after August 23, 2011 (the effective date of Public Act 97-542)
18 ~~this amendatory Act of the 97th General Assembly~~ may, by
19 ordinance or resolution, submit to the voters of the county the
20 question of reducing or discontinuing the tax. In the ordinance
21 or resolution, the county board shall certify the question to
22 the proper election authority in accordance with the Election
23 Code. The election authority must submit the question in
24 substantially the following form:

25 Shall the school facility retailers' occupation tax
26 and service occupation tax (commonly referred to as the

1 "school facility sales tax") currently imposed in (name of
2 county) at a rate of (insert rate) be (reduced to (insert
3 rate)) (discontinued)?

4 If a majority of the electors voting on the question vote in
5 the affirmative, then, subject to the provisions of subsection
6 (g) of this Section, the tax shall be reduced or discontinued
7 as set forth in the question.

8 (i) This Section does not apply to Cook County.

9 (j) This Section may be cited as the County School Facility
10 Occupation Tax Law.

11 (Source: P.A. 98-584, eff. 8-27-13; 99-143, eff. 7-27-15;
12 99-217, eff. 7-31-15; revised 11-6-15.)

13 Section 99. Effective date. This Act takes effect July 1,
14 2016.