



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5712

by Rep. Joe Sosnowski

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1006.5

55 ILCS 5/5-1006.7

65 ILCS 5/8-11-1.1

from Ch. 24, par. 8-11-1.1

Amends the Counties Code. Provides that if a County School Facility tax or a County Public Safety tax is imposed, the tax shall be imposed for a period of not less than 5 years but not more than 23 years (currently, no minimum or sunset is required). Amends the Illinois Municipal Code making similar changes to the Municipal Non-Home Rule Sales tax. Effective immediately.

LRB099 16812 AWJ 41159 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

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 Counties Code is amended by changing
5 Sections 5-1006.5 and 5-1006.7 as follows:

6 (55 ILCS 5/5-1006.5)

7 Sec. 5-1006.5. Special County Retailers' Occupation Tax
8 For Public Safety, Public Facilities, or Transportation.

9 (a) The county board of any county may impose a tax upon
10 all persons engaged in the business of selling tangible
11 personal property, other than personal property titled or
12 registered with an agency of this State's government, at retail
13 in the county on the gross receipts from the sales made in the
14 course of business to provide revenue to be used exclusively
15 for public safety, public facility, or transportation purposes
16 in that county, if a proposition for the tax has been submitted
17 to the electors of that county and approved by a majority of
18 those voting on the question. If imposed, this tax shall be
19 imposed only in one-quarter percent increments. If imposed,
20 this tax shall be imposed for a period of not less than 5 years
21 but not more than 23 years, if not terminated earlier by a vote
22 of the county board. By resolution, the county board may order
23 the proposition to be submitted at any election. If the tax is

1 imposed for transportation purposes for expenditures for
2 public highways or as authorized under the Illinois Highway
3 Code, the county board must publish notice of the existence of
4 its long-range highway transportation plan as required or
5 described in Section 5-301 of the Illinois Highway Code and
6 must make the plan publicly available prior to approval of the
7 ordinance or resolution imposing the tax. If the tax is imposed
8 for transportation purposes for expenditures for passenger
9 rail transportation, the county board must publish notice of
10 the existence of its long-range passenger rail transportation
11 plan and must make the plan publicly available prior to
12 approval of the ordinance or resolution imposing the tax.

13 If a tax is imposed for public facilities purposes, then
14 the name of the project may be included in the proposition at
15 the discretion of the county board as determined in the
16 enabling resolution. For example, the "XXX Nursing Home" or the
17 "YYY Museum".

18 The county clerk shall certify the question to the proper
19 election authority, who shall submit the proposition at an
20 election in accordance with the general election law.

21 ~~(1) The proposition for public safety purposes shall be~~
22 ~~in substantially the following form:~~

23 ~~"To pay for public safety purposes, shall (name of~~
24 ~~county) be authorized to impose an increase on its share of~~
25 ~~local sales taxes by (insert rate)?"~~

26 ~~As additional information on the ballot below the~~

1 ~~question shall appear the following:~~

2 ~~"This would mean that a consumer would pay an~~
3 ~~additional (insert amount) in sales tax for every \$100 of~~
4 ~~tangible personal property bought at retail."~~

5 The county board shall ~~may also opt to~~ establish a
6 sunset provision within the range provided in this
7 subsection (a), at which time the additional sales tax
8 would cease being collected, if not terminated earlier by a
9 vote of the county board. The ~~If the county board votes to~~
10 ~~include a sunset provision, the~~ proposition for public
11 safety purposes shall be in substantially the following
12 form:

13 "To pay for public safety purposes, shall (name of
14 county) be authorized to impose an increase on its share of
15 local sales taxes by (insert rate) for a period not to
16 exceed (insert number of years)? "

17 As additional information on the ballot below the
18 question shall appear the following:

19 "This would mean that a consumer would pay an
20 additional (insert amount) in sales tax for every \$100 of
21 tangible personal property bought at retail. If imposed,
22 the additional tax would cease being collected at the end
23 of (insert number of years), if not terminated earlier by a
24 vote of the county board."

25 For the purposes of the paragraph, "public safety
26 purposes" means crime prevention, detention, fire

1 fighting, police, medical, ambulance, or other emergency
2 services.

3 Votes shall be recorded as "Yes" or "No".

4 Beginning on the January 1 or July 1, whichever is
5 first, that occurs not less than 30 days after May 31, 2015
6 ~~(the effective date of Public Act 99-4) this amendatory Act~~
7 ~~of the 99th General Assembly~~, Adams County may impose a
8 public safety retailers' occupation tax and service
9 occupation tax at the rate of 0.25%, as provided in the
10 referendum approved by the voters on April 7, 2015,
11 notwithstanding the omission of the additional information
12 that is otherwise required to be printed on the ballot
13 below the question pursuant to this item (1).

14 (2) ~~The proposition for transportation purposes shall~~
15 ~~be in substantially the following form:~~

16 ~~"To pay for improvements to roads and other~~
17 ~~transportation purposes, shall (name of county) be~~
18 ~~authorized to impose an increase on its share of local~~
19 ~~sales taxes by (insert rate)?"~~

20 ~~As additional information on the ballot below the~~
21 ~~question shall appear the following:~~

22 ~~"This would mean that a consumer would pay an~~
23 ~~additional (insert amount) in sales tax for every \$100 of~~
24 ~~tangible personal property bought at retail."~~

25 The county board shall ~~may also opt to~~ establish a
26 sunset provision within the range provided in this

1 subsection (a), at which time the additional sales tax
2 would cease being collected, if not terminated earlier by a
3 vote of the county board. ~~The~~ ~~If the county board votes to~~
4 ~~include a sunset provision,~~ the proposition for
5 transportation purposes shall be in substantially the
6 following form:

7 "To pay for road improvements and other transportation
8 purposes, shall (name of county) be authorized to impose an
9 increase on its share of local sales taxes by (insert rate)
10 for a period not to exceed (insert number of years)? "

11 As additional information on the ballot below the
12 question shall appear the following:

13 "This would mean that a consumer would pay an
14 additional (insert amount) in sales tax for every \$100 of
15 tangible personal property bought at retail. If imposed,
16 the additional tax would cease being collected at the end
17 of (insert number of years), if not terminated earlier by a
18 vote of the county board."

19 For the purposes of this paragraph, transportation
20 purposes means construction, maintenance, operation, and
21 improvement of public highways, any other purpose for which
22 a county may expend funds under the Illinois Highway Code,
23 and passenger rail transportation.

24 The votes shall be recorded as "Yes" or "No".

25 (3) ~~The proposition for public facilities purposes~~
26 ~~shall be in substantially the following form:~~

1 ~~"To pay for public facilities purposes, shall (name of~~
2 ~~county) be authorized to impose an increase on its share of~~
3 ~~local sales taxes by (insert rate)?"~~

4 ~~As additional information on the ballot below the~~
5 ~~question shall appear the following:~~

6 ~~"This would mean that a consumer would pay an~~
7 ~~additional (insert amount) in sales tax for every \$100 of~~
8 ~~tangible personal property bought at retail."~~

9 The county board shall ~~may also opt to~~ establish a
10 sunset provision within the range provided in this
11 subsection (a), at which time the additional sales tax
12 would cease being collected, if not terminated earlier by a
13 vote of the county board. The ~~If the county board votes to~~
14 ~~include a sunset provision,~~ the proposition for public
15 facilities purposes shall be in substantially the
16 following form:

17 ~~"To pay for public facilities purposes, shall (name of~~
18 ~~county) be authorized to impose an increase on its share of~~
19 ~~local sales taxes by (insert rate) for a period not to~~
20 ~~exceed (insert number of years)?"~~

21 ~~As additional information on the ballot below the~~
22 ~~question shall appear the following:~~

23 ~~"This would mean that a consumer would pay an~~
24 ~~additional (insert amount) in sales tax for every \$100 of~~
25 ~~tangible personal property bought at retail. If imposed,~~
26 ~~the additional tax would cease being collected at the end~~

1 of (insert number of years), if not terminated earlier by a
2 vote of the county board."

3 For purposes of this Section, "public facilities
4 purposes" means the acquisition, development,
5 construction, reconstruction, rehabilitation, improvement,
6 financing, architectural planning, and installation of
7 capital facilities consisting of buildings, structures,
8 and durable equipment and for the acquisition and
9 improvement of real property and interest in real property
10 required, or expected to be required, in connection with
11 the public facilities, for use by the county for the
12 furnishing of governmental services to its citizens,
13 including but not limited to museums and nursing homes.

14 The votes shall be recorded as "Yes" or "No".

15 If a majority of the electors voting on the proposition
16 vote in favor of it, the county may impose the tax. A county
17 may not submit more than one proposition authorized by this
18 Section to the electors at any one time.

19 This additional tax may not be imposed on the sales of food
20 for human consumption that is to be consumed off the premises
21 where it is sold (other than alcoholic beverages, soft drinks,
22 and food which has been prepared for immediate consumption) and
23 prescription and non-prescription medicines, drugs, medical
24 appliances and insulin, urine testing materials, syringes, and
25 needles used by diabetics. The tax imposed by a county under
26 this Section and all civil penalties that may be assessed as an

1 incident of the tax shall be collected and enforced by the
2 Illinois Department of Revenue and deposited into a special
3 fund created for that purpose. The certificate of registration
4 that is issued by the Department to a retailer under the
5 Retailers' Occupation Tax Act shall permit the retailer to
6 engage in a business that is taxable without registering
7 separately with the Department under an ordinance or resolution
8 under this Section. The Department has full power to administer
9 and enforce this Section, to collect all taxes and penalties
10 due under this Section, to dispose of taxes and penalties so
11 collected in the manner provided in this Section, and to
12 determine all rights to credit memoranda arising on account of
13 the erroneous payment of a tax or penalty under this Section.
14 In the administration of and compliance with this Section, the
15 Department and persons who are subject to this Section shall
16 (i) have the same rights, remedies, privileges, immunities,
17 powers, and duties, (ii) be subject to the same conditions,
18 restrictions, limitations, penalties, and definitions of
19 terms, and (iii) employ the same modes of procedure as are
20 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
21 1n, 2 through 2-70 (in respect to all provisions contained in
22 those Sections other than the State rate of tax), 2a, 2b, 2c, 3
23 (except provisions relating to transaction returns and quarter
24 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
25 5j, 5k, 5l, 6, 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 11a, 12, and 13
26 of the Retailers' Occupation Tax Act and Section 3-7 of the

1 Uniform Penalty and Interest Act as if those provisions were
2 set forth in this Section.

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

10 Whenever the Department determines that a refund should be
11 made under this Section to a claimant instead of issuing a
12 credit memorandum, the Department shall notify the State
13 Comptroller, who shall cause the order to be drawn for the
14 amount specified and to the person named in the notification
15 from the Department. The refund shall be paid by the State
16 Treasurer out of the County Public Safety or Transportation
17 Retailers' Occupation Tax Fund.

18 (b) If a tax has been imposed under subsection (a), a
19 service occupation tax shall also be imposed at the same rate
20 upon all persons engaged, in the county, in the business of
21 making sales of service, who, as an incident to making those
22 sales of service, transfer tangible personal property within
23 the county as an incident to a sale of service. This tax may
24 not be imposed on sales of food for human consumption that is
25 to be consumed off the premises where it is sold (other than
26 alcoholic beverages, soft drinks, and food prepared for

1 immediate consumption) and prescription and non-prescription
2 medicines, drugs, medical appliances and insulin, urine
3 testing materials, syringes, and needles used by diabetics. The
4 tax imposed under this subsection and all civil penalties that
5 may be assessed as an incident thereof shall be collected and
6 enforced by the Department of Revenue. The Department has full
7 power to administer and enforce this subsection; to collect all
8 taxes and penalties due hereunder; to dispose of taxes and
9 penalties so collected in the manner hereinafter provided; and
10 to determine all rights to credit memoranda arising on account
11 of the erroneous payment of tax or penalty hereunder. In the
12 administration of, and compliance with this subsection, the
13 Department and persons who are subject to this paragraph shall
14 (i) have the same rights, remedies, privileges, immunities,
15 powers, and duties, (ii) be subject to the same conditions,
16 restrictions, limitations, penalties, exclusions, exemptions,
17 and definitions of terms, and (iii) employ the same modes of
18 procedure as are prescribed in Sections 2 (except that the
19 reference to State in the definition of supplier maintaining a
20 place of business in this State shall mean the county), 2a, 2b,
21 2c, 3 through 3-50 (in respect to all provisions therein other
22 than the State rate of tax), 4 (except that the reference to
23 the State shall be to the county), 5, 7, 8 (except that the
24 jurisdiction to which the tax shall be a debt to the extent
25 indicated in that Section 8 shall be the county), 9 (except as
26 to the disposition of taxes and penalties collected), 10, 11,

1 12 (except the reference therein to Section 2b of the
2 Retailers' Occupation Tax Act), 13 (except that any reference
3 to the State shall mean the county), Section 15, 16, 17, 18, 19
4 and 20 of the Service Occupation Tax Act and Section 3-7 of the
5 Uniform Penalty and Interest Act, as fully as if those
6 provisions were set forth herein.

7 Persons subject to any tax imposed under the authority
8 granted in this subsection may reimburse themselves for their
9 serviceman's tax liability by separately stating the tax as an
10 additional charge, which charge may be stated in combination,
11 in a single amount, with State tax that servicemen are
12 authorized to collect under the Service Use Tax Act, in
13 accordance with such bracket schedules as the Department may
14 prescribe.

15 Whenever the Department determines that a refund should be
16 made under this subsection to a claimant instead of issuing a
17 credit memorandum, the Department shall notify the State
18 Comptroller, who shall cause the warrant to be drawn for the
19 amount specified, and to the person named, in the notification
20 from the Department. The refund shall be paid by the State
21 Treasurer out of the County Public Safety or Transportation
22 Retailers' Occupation Fund.

23 Nothing in this subsection shall be construed to authorize
24 the county to impose a tax upon the privilege of engaging in
25 any business which under the Constitution of the United States
26 may not be made the subject of taxation by the State.

1 (c) The Department shall immediately pay over to the State
2 Treasurer, ex officio, as trustee, all taxes and penalties
3 collected under this Section to be deposited into the County
4 Public Safety or Transportation Retailers' Occupation Tax
5 Fund, which shall be an unappropriated trust fund held outside
6 of the State treasury.

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

15 After the monthly transfer to the STAR Bonds Revenue Fund,
16 on or before the 25th day of each calendar month, the
17 Department shall prepare and certify to the Comptroller the
18 disbursement of stated sums of money to the counties from which
19 retailers have paid taxes or penalties to the Department during
20 the second preceding calendar month. The amount to be paid to
21 each county, and deposited by the county into its special fund
22 created for the purposes of this Section, shall be the amount
23 (not including credit memoranda) collected under this Section
24 during the second preceding calendar month by the Department
25 plus an amount the Department determines is necessary to offset
26 any amounts that were erroneously paid to a different taxing

1 body, and not including (i) an amount equal to the amount of
2 refunds made during the second preceding calendar month by the
3 Department on behalf of the county, (ii) any amount that the
4 Department determines is necessary to offset any amounts that
5 were payable to a different taxing body but were erroneously
6 paid to the county, and (iii) any amounts that are transferred
7 to the STAR Bonds Revenue Fund. Within 10 days after receipt by
8 the Comptroller of the disbursement certification to the
9 counties provided for in this Section to be given to the
10 Comptroller by the Department, the Comptroller shall cause the
11 orders to be drawn for the respective amounts in accordance
12 with directions contained in the certification.

13 In addition to the disbursement required by the preceding
14 paragraph, an allocation shall be made in March of each year to
15 each county that received more than \$500,000 in disbursements
16 under the preceding paragraph in the preceding calendar year.
17 The allocation shall be in an amount equal to the average
18 monthly distribution made to each such county under the
19 preceding paragraph during the preceding calendar year
20 (excluding the 2 months of highest receipts). The distribution
21 made in March of each year subsequent to the year in which an
22 allocation was made pursuant to this paragraph and the
23 preceding paragraph shall be reduced by the amount allocated
24 and disbursed under this paragraph in the preceding calendar
25 year. The Department shall prepare and certify to the
26 Comptroller for disbursement the allocations made in

1 accordance with this paragraph.

2 A county may direct, by ordinance, that all or a portion of
3 the taxes and penalties collected under the Special County
4 Retailers' Occupation Tax For Public Safety or Transportation
5 be deposited into the Transportation Development Partnership
6 Trust Fund.

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

16 (e) Nothing in this Section shall be construed to authorize
17 a county to impose a tax upon the privilege of engaging in any
18 business that under the Constitution of the United States may
19 not be made the subject of taxation by this State.

20 (e-5) If a county imposes a tax under this Section, the
21 county board may, by ordinance, discontinue or lower the rate
22 of the tax. If the county board lowers the tax rate or
23 discontinues the tax, a referendum must be held in accordance
24 with subsection (a) of this Section in order to increase the
25 rate of the tax or to reimpose the discontinued tax.

26 (f) Beginning April 1, 1998 and through December 31, 2013,

1 the results of any election authorizing a proposition to impose
2 a tax under this Section or effecting a change in the rate of
3 tax, or any ordinance lowering the rate or discontinuing the
4 tax, shall be certified by the county clerk and filed with the
5 Illinois Department of Revenue either (i) on or before the
6 first day of April, whereupon the Department shall proceed to
7 administer and enforce the tax as of the first day of July next
8 following the filing; or (ii) on or before the first day of
9 October, whereupon the Department shall proceed to administer
10 and enforce the tax as of the first day of January next
11 following the filing.

12 Beginning January 1, 2014, the results of any election
13 authorizing a proposition to impose a tax under this Section or
14 effecting an increase in the rate of tax, along with the
15 ordinance adopted to impose the tax or increase the rate of the
16 tax, or any ordinance adopted to lower the rate or discontinue
17 the tax, shall be certified by the county clerk and filed with
18 the Illinois Department of Revenue either (i) on or before the
19 first day of May, whereupon the Department shall proceed to
20 administer and enforce the tax as of the first day of July next
21 following the adoption and filing; or (ii) on or before the
22 first day of October, whereupon the Department shall proceed to
23 administer and enforce the tax as of the first day of January
24 next following the adoption and filing.

25 (g) When certifying the amount of a monthly disbursement to
26 a county under this Section, the Department shall increase or

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

5 (h) This Section may be cited as the "Special County
6 Occupation Tax For Public Safety, Public Facilities, or
7 Transportation Law".

8 (i) For purposes of this Section, "public safety" includes,
9 but is not limited to, crime prevention, detention, fire
10 fighting, police, medical, ambulance, or other emergency
11 services. The county may share tax proceeds received under this
12 Section for public safety purposes, including proceeds
13 received before August 4, 2009 (the effective date of Public
14 Act 96-124), with any fire protection district located in the
15 county. For the purposes of this Section, "transportation"
16 includes, but is not limited to, the construction, maintenance,
17 operation, and improvement of public highways, any other
18 purpose for which a county may expend funds under the Illinois
19 Highway Code, and passenger rail transportation. For the
20 purposes of this Section, "public facilities purposes"
21 includes, but is not limited to, 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 public facilities, for use
2 by the county for the furnishing of governmental services to
3 its citizens, including but not limited to museums and nursing
4 homes.

5 (j) The Department may promulgate rules to implement Public
6 Act 95-1002 only to the extent necessary to apply the existing
7 rules for the Special County Retailers' Occupation Tax for
8 Public Safety to this new purpose for public facilities.

9 (Source: P.A. 98-584, eff. 8-27-13; 99-4, eff. 5-31-15; 99-217,
10 eff. 7-31-15; revised 11-6-15.)

11 (55 ILCS 5/5-1006.7)

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

13 (a) In any county, a tax shall be imposed upon all persons
14 engaged in the business of selling tangible personal property,
15 other than personal property titled or registered with an
16 agency of this State's government, at retail in the county on
17 the gross receipts from the sales made in the course of
18 business to provide revenue to be used exclusively for school
19 facility purposes if a proposition for the tax has been
20 submitted to the electors of that county and approved by a
21 majority of those voting on the question as provided in
22 subsection (c). The tax under this Section shall be imposed
23 only in one-quarter percent increments and may not exceed 1%.
24 The tax shall be imposed for a period not less than 5 years but
25 not more than 23 years.

1 This additional tax may not be imposed on the sale of food
2 for human consumption that is to be consumed off the premises
3 where it is sold (other than alcoholic beverages, soft drinks,
4 and food that has been prepared for immediate consumption) and
5 prescription and non-prescription medicines, drugs, medical
6 appliances and insulin, urine testing materials, syringes and
7 needles used by diabetics. The Department of Revenue has full
8 power to administer and enforce this subsection, to collect all
9 taxes and penalties due under this subsection, to dispose of
10 taxes and penalties so collected in the manner provided in this
11 subsection, and to determine all rights to credit memoranda
12 arising on account of the erroneous payment of a tax or penalty
13 under this subsection. The Department shall deposit all taxes
14 and penalties collected under this subsection into a special
15 fund created for that purpose.

16 In the administration of and compliance with this
17 subsection, the Department and persons who are subject to this
18 subsection (i) have the same rights, remedies, privileges,
19 immunities, powers, and duties, (ii) are subject to the same
20 conditions, restrictions, limitations, penalties, and
21 definitions of terms, and (iii) shall employ the same modes of
22 procedure as are set forth in Sections 1 through 10, 2 through
23 2-70 (in respect to all provisions contained in those Sections
24 other than the State rate of tax), 2a through 2h, 3 (except as
25 to the disposition of taxes and penalties collected), 4, 5, 5a,
26 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 6d,

1 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation
2 Tax Act and all provisions of the Uniform Penalty and Interest
3 Act as if those provisions were set forth in this subsection.

4 The certificate of registration that is issued by the
5 Department to a retailer under the Retailers' Occupation Tax
6 Act permits the retailer to engage in a business that is
7 taxable without registering separately with the Department
8 under an ordinance or resolution under this subsection.

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

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

22 This tax may not be imposed on sales of food for human
23 consumption that is to be consumed off the premises where it is
24 sold (other than alcoholic beverages, soft drinks, and food
25 prepared for immediate consumption) and prescription and
26 non-prescription medicines, drugs, medical appliances and

1 insulin, urine testing materials, syringes, and needles used by
2 diabetics.

3 The tax imposed under this subsection and all civil
4 penalties that may be assessed as an incident thereof shall be
5 collected and enforced by the Department and deposited into a
6 special fund created for that purpose. The Department has full
7 power to administer and enforce this subsection, to collect all
8 taxes and penalties due under this subsection, to dispose of
9 taxes and penalties so collected in the manner provided in this
10 subsection, and to determine all rights to credit memoranda
11 arising on account of the erroneous payment of a tax or penalty
12 under this subsection.

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

1 (except as to the disposition of taxes and penalties
2 collected), 10, 11, 12 (except the reference therein to Section
3 2b of the Retailers' Occupation Tax Act), 13 (except that any
4 reference to the State means the county), Section 15, 16, 17,
5 18, 19, and 20 of the Service Occupation Tax Act and all
6 provisions of the Uniform Penalty and Interest Act, as fully as
7 if those provisions were set forth herein.

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

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

26 For all regular elections held prior to August 23, 2011

1 ~~(the effective date of Public Act 97-542) ~~this amendatory Act~~~~
2 ~~of the 97th General Assembly,~~ the election authority must
3 submit the question in substantially the following form:

4 Shall (name of county) be authorized to impose a
5 retailers' occupation tax and a service occupation tax
6 (commonly referred to as a "sales tax") at a rate of
7 (insert rate) to be used exclusively for school facility
8 purposes?

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

10 If a majority of the electors voting on the question vote
11 in the affirmative, then the county may, thereafter, impose the
12 tax.

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

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

1 Shall a retailers' occupation tax and a service
2 occupation tax (commonly referred to as a "sales tax") be
3 imposed in (name of county) at a rate of (insert rate) for
4 a period not to exceed (insert number of years) to be used
5 exclusively for school facility purposes?

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

7 If a majority of the electors voting on the question vote
8 in the affirmative, then the tax shall be imposed at the rate
9 set forth in the question.

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

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

20 On or before the 25th day of each calendar month, the
21 Department shall prepare and certify to the Comptroller the
22 disbursement of stated sums of money to the regional
23 superintendents of schools in counties from which retailers or
24 servicemen have paid taxes or penalties to the Department
25 during the second preceding calendar month. The amount to be
26 paid to each regional superintendent of schools and disbursed

1 to him or her in accordance with Section 3-14.31 of the School
2 Code, is equal to the amount (not including credit memoranda)
3 collected from the county under this Section during the second
4 preceding calendar month by the Department, (i) less 2% of that
5 amount, which shall be deposited into the Tax Compliance and
6 Administration Fund and shall be used by the Department,
7 subject to appropriation, to cover the costs of the Department
8 in administering and enforcing the provisions of this Section,
9 on behalf of the county, (ii) plus an amount that the
10 Department determines is necessary to offset any amounts that
11 were erroneously paid to a different taxing body; (iii) less an
12 amount equal to the amount of refunds made during the second
13 preceding calendar month by the Department on behalf of the
14 county; and (iv) less any amount that the Department determines
15 is necessary to offset any amounts that were payable to a
16 different taxing body but were erroneously paid to the county.
17 When certifying the amount of a monthly disbursement to a
18 regional superintendent of schools under this Section, the
19 Department shall increase or decrease the amounts by an amount
20 necessary to offset any miscalculation of previous
21 disbursements within the previous 6 months from the time a
22 miscalculation is discovered.

23 Within 10 days after receipt by the Comptroller from the
24 Department of the disbursement certification to the regional
25 superintendents of the schools provided for in this Section,
26 the Comptroller shall cause the orders to be drawn for the

1 respective amounts in accordance with directions contained in
2 the certification.

3 If the Department determines that a refund should be made
4 under this Section to a claimant instead of issuing a credit
5 memorandum, then the Department shall notify the Comptroller,
6 who shall cause the order to be drawn for the amount specified
7 and to the person named in the notification from the
8 Department. The refund shall be paid by the Treasurer out of
9 the School Facility Occupation Tax Fund.

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

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

23 (g) If a county board imposes a tax under this Section
24 pursuant to a referendum held before August 23, 2011 (the
25 effective date of Public Act 97-542) ~~this amendatory Act of the~~
26 ~~97th General Assembly~~ at a rate below the rate set forth in the

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

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

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

25 (h) For purposes of this Section, "school facility
26 purposes" means (i) the acquisition, development,

1 construction, reconstruction, rehabilitation, improvement,
2 financing, architectural planning, and installation of capital
3 facilities consisting of buildings, structures, and durable
4 equipment and for the acquisition and improvement of real
5 property and interest in real property required, or expected to
6 be required, in connection with the capital facilities and (ii)
7 the payment of bonds or other obligations heretofore or
8 hereafter issued, including bonds or other obligations
9 heretofore or hereafter issued to refund or to continue to
10 refund bonds or other obligations issued, for school facility
11 purposes, provided that the taxes levied to pay those bonds are
12 abated by the amount of the taxes imposed under this Section
13 that are used to pay those bonds. "School-facility purposes"
14 also includes fire prevention, safety, energy conservation,
15 accessibility, school security, and specified repair purposes
16 set forth under Section 17-2.11 of the School Code.

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

1 Shall the school facility retailers' occupation tax
2 and service occupation tax (commonly referred to as the
3 "school facility sales tax") currently imposed in (name of
4 county) at a rate of (insert rate) be (reduced to (insert
5 rate)) (discontinued)?

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

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

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

13 (Source: P.A. 98-584, eff. 8-27-13; 99-143, eff. 7-27-15;
14 99-217, eff. 7-31-15; revised 11-6-15.)

15 Section 10. The Illinois Municipal Code is amended by
16 changing Section 8-11-1.1 as follows:

17 (65 ILCS 5/8-11-1.1) (from Ch. 24, par. 8-11-1.1)

18 Sec. 8-11-1.1. Non-home rule municipalities; imposition of
19 taxes.

20 (a) The corporate authorities of a non-home rule
21 municipality may, upon approval of the electors of the
22 municipality pursuant to subsection (b) of this Section, impose
23 by ordinance or resolution the tax authorized in Sections
24 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act.

1 (b) The corporate authorities of the municipality may by
2 ordinance or resolution call for the submission to the electors
3 of the municipality the question of whether the municipality
4 shall impose such tax. If imposed, this tax may be imposed for
5 a period of not less than 5 years but not more than 23 years, if
6 not terminated earlier by a vote of the corporate authorities
7 of the municipality. Such question shall be certified by the
8 municipal clerk to the election authority in accordance with
9 Section 28-5 of the Election Code and shall be in a form in
10 accordance with Section 16-7 of the Election Code.

11 Notwithstanding any provision of law to the contrary, if
12 the proceeds of the tax may be used for municipal operations
13 pursuant to Section 8-11-1.3, 8-11-1.4, or 8-11-1.5, then the
14 election authority must submit the question in substantially
15 the following form:

16 Shall the corporate authorities of the municipality be
17 authorized to levy a tax at a rate of (rate)% for a period
18 not to exceed (insert number of years) for expenditures on
19 municipal operations, expenditures on public
20 infrastructure, or property tax relief?

21 If a majority of the electors in the municipality voting
22 upon the question vote in the affirmative, such tax shall be
23 imposed.

24 Until January 1, 1992, an ordinance or resolution imposing
25 the tax of not more than 1% hereunder or discontinuing the same
26 shall be adopted and a certified copy thereof, together with a

1 certification that the ordinance or resolution received
2 referendum approval in the case of the imposition of such tax,
3 filed with the Department of Revenue, on or before the first
4 day of June, whereupon the Department shall proceed to
5 administer and enforce the additional tax or to discontinue the
6 tax, as the case may be, as of the first day of September next
7 following such adoption and filing.

8 Beginning January 1, 1992 and through December 31, 1992, an
9 ordinance or resolution imposing or discontinuing the tax
10 hereunder shall be adopted and a certified copy thereof filed
11 with the Department on or before the first day of July,
12 whereupon the Department shall proceed to administer and
13 enforce this Section as of the first day of October next
14 following such adoption and filing.

15 Beginning January 1, 1993, and through September 30, 2002,
16 an ordinance or resolution imposing or discontinuing the tax
17 hereunder shall be adopted and a certified copy thereof filed
18 with the Department on or before the first day of October,
19 whereupon the Department shall proceed to administer and
20 enforce this Section as of the first day of January next
21 following such adoption and filing.

22 Beginning October 1, 2002, and through December 31, 2013,
23 an ordinance or resolution imposing or discontinuing the tax
24 under this Section or effecting a change in the rate of tax
25 must either (i) be adopted and a certified copy of the
26 ordinance or resolution filed with the Department on or before

1 the first day of April, whereupon the Department shall proceed
2 to administer and enforce this Section as of the first day of
3 July next following the adoption and filing; or (ii) be adopted
4 and a certified copy of the ordinance or resolution filed with
5 the Department on or before the first day of October, whereupon
6 the Department shall proceed to administer and enforce this
7 Section as of the first day of January next following the
8 adoption and filing.

9 Beginning January 1, 2014, if an ordinance or resolution
10 imposing the tax under this Section, discontinuing the tax
11 under this Section, or effecting a change in the rate of tax
12 under this Section is adopted, a certified copy thereof,
13 together with a certification that the ordinance or resolution
14 received referendum approval in the case of the imposition of
15 or increase in the rate of such tax, shall be filed with the
16 Department of Revenue, either (i) on or before the first day of
17 May, whereupon the Department shall proceed to administer and
18 enforce this Section as of the first day of July next following
19 the adoption and filing; or (ii) on or before the first day of
20 October, whereupon the Department shall proceed to administer
21 and enforce this Section as of the first day of January next
22 following the adoption and filing.

23 Notwithstanding any provision in this Section to the
24 contrary, if, in a non-home rule municipality with more than
25 150,000 but fewer than 200,000 inhabitants, as determined by
26 the last preceding federal decennial census, an ordinance or

1 resolution under this Section imposes or discontinues a tax or
2 changes the tax rate as of July 1, 2007, then that ordinance or
3 resolution, together with a certification that the ordinance or
4 resolution received referendum approval in the case of the
5 imposition of the tax, must be adopted and a certified copy of
6 that ordinance or resolution must be filed with the Department
7 on or before May 15, 2007, whereupon the Department shall
8 proceed to administer and enforce this Section as of July 1,
9 2007.

10 Notwithstanding any provision in this Section to the
11 contrary, if, in a non-home rule municipality with more than
12 6,500 but fewer than 7,000 inhabitants, as determined by the
13 last preceding federal decennial census, an ordinance or
14 resolution under this Section imposes or discontinues a tax or
15 changes the tax rate on or before May 20, 2009, then that
16 ordinance or resolution, together with a certification that the
17 ordinance or resolution received referendum approval in the
18 case of the imposition of the tax, must be adopted and a
19 certified copy of that ordinance or resolution must be filed
20 with the Department on or before May 20, 2009, whereupon the
21 Department shall proceed to administer and enforce this Section
22 as of July 1, 2009.

23 A non-home rule municipality may file a certified copy of
24 an ordinance or resolution, with a certification that the
25 ordinance or resolution received referendum approval in the
26 case of the imposition of the tax, with the Department of

1 Revenue, as required under this Section, only after October 2,
2 2000.

3 The tax authorized by this Section may not be more than 1%
4 and may be imposed only in 1/4% increments.

5 (Source: P.A. 98-584, eff. 8-27-13.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.