

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 1%.

19 This additional tax may not be imposed on the sale 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 that has been prepared for immediate consumption) and
23 prescription and non-prescription medicines, drugs, medical

1 appliances and insulin, urine testing materials, syringes and
2 needles used by diabetics. The Department of Revenue 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. The Department shall deposit all taxes
9 and penalties collected under this subsection into a special
10 fund created for that purpose.

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

25 The certificate of registration that is issued by the
26 Department to a retailer under the Retailers' Occupation Tax

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

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

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

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

24 The tax imposed under this subsection and all civil
25 penalties that may be assessed as an incident thereof shall be
26 collected and enforced by the Department and deposited into a

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

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

1 provisions of the Uniform Penalty and Interest Act, as fully as
2 if those provisions were set forth herein.

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

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

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

25 Shall (name of county) be authorized to impose a
26 retailers' occupation tax and a service occupation tax

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

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

5 If a majority of the electors voting on the question vote
6 in the affirmative, then the county may, thereafter, impose the
7 tax. If a county board imposes a tax under this Section
8 pursuant to a referendum held before August 23, 2011 at a rate
9 below the rate set forth in the question approved by a majority
10 of electors of that county voting on the question as provided
11 in subsection (c), then, notwithstanding the imposition of the
12 tax by the county board at such rate, beginning on the January
13 1 or July 1 as set forth in subsection (g), the tax shall be
14 imposed at the rate set forth in the question approved by a
15 majority of electors of that county.

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

26 For all regular elections held on or after August 23, 2011

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

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

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

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

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

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

22 On or before the 25th day of each calendar month, the
23 Department shall prepare and certify to the Comptroller the
24 disbursement of stated sums of money to the regional
25 superintendents of schools in counties from which retailers or
26 servicemen have paid taxes or penalties to the Department

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

25 Within 10 days after receipt by the Comptroller from the
26 Department of the disbursement certification to the regional

1 superintendents of the schools provided for in this Section,
2 the Comptroller shall cause the orders to be drawn for the
3 respective amounts in accordance with directions contained in
4 the certification.

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

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

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

25 ~~(g) If a county board imposes a tax under this Section~~
26 ~~pursuant to a referendum held before the effective date of this~~

1 ~~amendatory Act of the 97th General Assembly at a rate below the~~
2 ~~rate set forth in the question approved by a majority of~~
3 ~~electors of that county voting on the question as provided in~~
4 ~~subsection (c), then the county board may, by ordinance,~~
5 ~~increase the rate of the tax up to the rate set forth in the~~
6 ~~question approved by a majority of electors of that county~~
7 ~~voting on the question as provided in subsection (c). If a~~
8 county board imposes a tax under this Section pursuant to a
9 referendum held before August 23, 2011 at the rate set forth in
10 the question approved by a majority of electors of that county
11 voting on the question as provided in subsection (c), the
12 ~~effective date of this amendatory Act of the 97th General~~
13 ~~Assembly,~~ then the board may, by ordinance, discontinue or
14 reduce the rate of the tax. If a county board imposes a tax
15 under this Section pursuant to a referendum held before August
16 23, 2011 at a rate below the rate set forth in the question
17 approved by a majority of electors of that county voting on the
18 question as provided in subsection (c), and the tax is then
19 increased by this amendatory Act of the 97th General Assembly
20 to the rate set forth in the question, then the county board
21 may reduce or discontinue the tax, but only in accordance with
22 subsection h-5 of this Section. If a tax is imposed under this
23 Section pursuant to a referendum held on or after August 23,
24 2011 ~~the effective date of this amendatory Act of the 97th~~
25 ~~General Assembly,~~ then the county board may reduce or
26 discontinue the tax, but only in accordance with subsection

1 (h-5) of this Section. If, however, a school board issues bonds
2 that are secured by the proceeds of the tax under this Section,
3 then the county board may not reduce the tax rate or
4 discontinue the tax if that rate reduction or discontinuance
5 would adversely affect the school board's ability to pay the
6 principal and interest on those bonds as they become due or
7 necessitate the extension of additional property taxes to pay
8 the principal and interest on those bonds. If the county board
9 reduces the tax rate or discontinues the tax, then a referendum
10 must be held in accordance with subsection (c) of this Section
11 in order to increase the rate of the tax or to reimpose the
12 discontinued tax.

13 The results of any election that imposes, reduces, or
14 discontinues a tax under this Section must be certified by the
15 election authority, and any ordinance that ~~increases or~~ lowers
16 the rate or discontinues the tax must be certified by the
17 county clerk and, in each case, filed with the Illinois
18 Department of Revenue either (i) on or before the first day of
19 April, whereupon the Department shall proceed to administer and
20 enforce the tax or change in the rate as of the first day of
21 July next following the filing; or (ii) on or before the first
22 day of October, whereupon the Department shall proceed to
23 administer and enforce the tax or change in the rate as of the
24 first day of January next following the filing. In any county
25 where the rate of the tax is increased pursuant to subsection
26 (c) of this Section, and the effective date of this amendatory

1 Act of the 97th General Assembly is on or before the first day
2 of April, then the Department shall proceed to administer and
3 enforce the change in the rate of the tax beginning on the
4 first day of July after the effective date of this amendatory
5 Act of the 97th General Assembly. In any county where the rate
6 of the tax is increased pursuant to subsection (c) of this
7 Section, and the effective date of this amendatory Act of the
8 97th General Assembly is on or before the first day of October,
9 then the Department shall proceed to administer and enforce the
10 change in the rate of the tax beginning on the first day of
11 January after the effective date of this amendatory Act of the
12 97th General Assembly.

13 (h) For purposes of this Section, "school facility
14 purposes" means (i) the acquisition, development,
15 construction, reconstruction, rehabilitation, improvement,
16 financing, architectural planning, and installation of capital
17 facilities consisting of buildings, structures, and durable
18 equipment and for the acquisition and improvement of real
19 property and interest in real property required, or expected to
20 be required, in connection with the capital facilities and (ii)
21 the payment of bonds or other obligations heretofore or
22 hereafter issued, including bonds or other obligations
23 heretofore or hereafter issued to refund or to continue to
24 refund bonds or other obligations issued, for school facility
25 purposes, provided that the taxes levied to pay those bonds are
26 abated by the amount of the taxes imposed under this Section

1 that are used to pay those bonds. "School-facility purposes"
2 also includes fire prevention, safety, energy conservation,
3 disabled accessibility, school security, and specified repair
4 purposes set forth under Section 17-2.11 of the School Code.

5 (h-5) A county board in a county where a tax has been (i)
6 imposed under this Section pursuant to a referendum held on or
7 after August 23, 2011, or (ii) increased pursuant to this
8 amendatory Act of the 97th General Assembly ~~the effective date~~
9 ~~of this amendatory Act of the 97th General Assembly~~ may, by
10 ordinance or resolution, submit to the voters of the county the
11 question of reducing or discontinuing the tax. In the ordinance
12 or resolution, the county board shall certify the question to
13 the proper election authority in accordance with the Election
14 Code. The election authority must submit the question in
15 substantially the following form:

16 Shall the school facility retailers' occupation tax
17 and service occupation tax (commonly referred to as the
18 "school facility sales tax") currently imposed in (name of
19 county) at a rate of (insert rate) be (reduced to (insert
20 rate)) (discontinued)?

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

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

26 (j) This Section may be cited as the County School Facility

1 Occupation Tax Law.

2 (Source: P.A. 97-542, eff. 8-23-11; revised 11-18-11.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.