

# SB2324



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB2324

Introduced 2/10/2023, by Sen. David Koehler

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1006.7

Amends the County School Facility and Resources Occupation Tax Law of the Counties Code. Provides that, for elections held after the effective date of the amendatory Act, regional superintendents of schools must, upon receipt of a resolution or resolutions of school district boards that represent more than 51% of the student enrollment within the county or two-thirds of the school districts (currently, upon receipt of a resolution or resolutions of school district boards that represent more than 50% of the student enrollment within the county), certify the question regarding imposition of the school facility and resources occupation tax to the proper election authority for submission to the electors of the county at the next regular election at which the question lawfully may be submitted to the electors. Effective immediately.

LRB103 27160 AWJ 53529 b

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

6 (55 ILCS 5/5-1006.7)

7 Sec. 5-1006.7. School facility and resources occupation  
8 taxes.

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

1           This additional tax may not be imposed on tangible  
2 personal property taxed at the 1% rate under the Retailers'  
3 Occupation Tax Act (or at the 0% rate imposed under Public Act  
4 102-700 ~~this amendatory Act of the 102nd General Assembly~~).  
5 Beginning December 1, 2019 and through December 31, 2020, this  
6 tax is not imposed on sales of aviation fuel unless the tax  
7 revenue is expended for airport-related purposes. If the  
8 county does not have an airport-related purpose to which it  
9 dedicates aviation fuel tax revenue, then aviation fuel is  
10 excluded from the tax. The county must comply with the  
11 certification requirements for airport-related purposes under  
12 Section 2-22 of the Retailers' Occupation Tax Act. For  
13 purposes of this Section, "airport-related purposes" has the  
14 meaning ascribed in Section 6z-20.2 of the State Finance Act.  
15 Beginning January 1, 2021, this tax is not imposed on sales of  
16 aviation fuel for so long as the revenue use requirements of 49  
17 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the county.  
18 The Department of Revenue has full power to administer and  
19 enforce this subsection, to collect all taxes and penalties  
20 due under this subsection, to dispose of taxes and penalties  
21 so collected in the manner provided in this subsection, and to  
22 determine all rights to credit memoranda arising on account of  
23 the erroneous payment of a tax or penalty under this  
24 subsection. The Department shall deposit all taxes and  
25 penalties collected under this subsection into a special fund  
26 created for that purpose.

1           In the administration of and compliance with this  
2 subsection, the Department and persons who are subject to this  
3 subsection (i) have the same rights, remedies, privileges,  
4 immunities, powers, and duties, (ii) are subject to the same  
5 conditions, restrictions, limitations, penalties, and  
6 definitions of terms, and (iii) shall employ the same modes of  
7 procedure as are set forth in Sections 1 through 10, 2 through  
8 2-70 (in respect to all provisions contained in those Sections  
9 other than the State rate of tax), 2a through 2h, 3 (except as  
10 to the disposition of taxes and penalties collected, and  
11 except that the retailer's discount is not allowed for taxes  
12 paid on aviation fuel that are subject to the revenue use  
13 requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133), 4, 5,  
14 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c,  
15 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers'  
16 Occupation Tax Act and all provisions of the Uniform Penalty  
17 and Interest Act as if those provisions were set forth in this  
18 subsection.

19           The certificate of registration that is issued by the  
20 Department to a retailer under the Retailers' Occupation Tax  
21 Act permits the retailer to engage in a business that is  
22 taxable without registering separately with the Department  
23 under an ordinance or resolution under this subsection.

24           Persons subject to any tax imposed under the authority  
25 granted in this subsection may reimburse themselves for their  
26 seller's tax liability by separately stating that tax as an

1 additional charge, which may be stated in combination, in a  
2 single amount, with State tax that sellers are required to  
3 collect under the Use Tax Act, pursuant to any bracketed  
4 schedules set forth by the Department.

5 (b) If a tax has been imposed under subsection (a), then a  
6 service occupation tax must also be imposed at the same rate  
7 upon all persons engaged, in the county, in the business of  
8 making sales of service, who, as an incident to making those  
9 sales of service, transfer tangible personal property within  
10 the county as an incident to a sale of service.

11 This tax may not be imposed on tangible personal property  
12 taxed at the 1% rate under the Service Occupation Tax Act (or  
13 at the 0% rate imposed under Public Act 102-700 ~~this~~  
14 ~~amendatory Act of the 102nd General Assembly~~). Beginning  
15 December 1, 2019 and through December 31, 2020, this tax is not  
16 imposed on sales of aviation fuel unless the tax revenue is  
17 expended for airport-related purposes. If the county does not  
18 have an airport-related purpose to which it dedicates aviation  
19 fuel tax revenue, then aviation fuel is excluded from the tax.  
20 The county must comply with the certification requirements for  
21 airport-related purposes under Section 2-22 of the Retailers'  
22 Occupation Tax Act. For purposes of this Section,  
23 "airport-related purposes" has the meaning ascribed in Section  
24 6z-20.2 of the State Finance Act. Beginning January 1, 2021,  
25 this tax is not imposed on sales of aviation fuel for so long  
26 as the revenue use requirements of 49 U.S.C. 47107(b) and 49

1 U.S.C. 47133 are binding on the county.

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

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

1 collected, and except that the retailer's discount is not  
2 allowed for taxes paid on aviation fuel that are subject to the  
3 revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C.  
4 47133), 10, 11, 12 (except the reference therein to Section 2b  
5 of the Retailers' Occupation Tax Act), 13 (except that any  
6 reference to the State means the county), ~~Section~~ 15, 16, 17,  
7 18, 19, and 20 of the Service Occupation Tax Act and all  
8 provisions of the Uniform Penalty and Interest Act, as fully  
9 as if those provisions were set forth herein.

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

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

1 For all regular elections held prior to August 23, 2011  
2 (the effective date of Public Act 97-542), the election  
3 authority must submit the question in substantially the  
4 following form:

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

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

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

15 For all regular elections held on or after August 23, 2011  
16 (the effective date of Public Act 97-542) through the  
17 effective date of this amendatory Act of the 103rd General  
18 Assembly, the regional superintendent of schools for the  
19 county must, upon receipt of a resolution or resolutions of  
20 school district boards that represent more than 50% of the  
21 student enrollment within the county, certify the question to  
22 the proper election authority for submission to the electors  
23 of the county at the next regular election at which the  
24 question lawfully may be submitted to the electors, all in  
25 accordance with the Election Code. For all regular elections  
26 held after the effective date of this amendatory Act of the



1 103rd General Assembly, the regional superintendent of schools  
2 for the county must, upon receipt of a resolution or  
3 resolutions of school district boards that represent more than  
4 51% of the student enrollment within the county or two-thirds  
5 of the school districts, certify the question to the proper  
6 election authority for submission to the electors of the  
7 county at the next regular election at which the question  
8 lawfully may be submitted to the electors, all in accordance  
9 with the Election Code.

10 For all regular elections held on or after August 23, 2011  
11 (the effective date of Public Act 97-542) and before August  
12 23, 2019 (the effective date of Public Act 101-455), the  
13 election authority must submit the question in substantially  
14 the following form:

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

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

21 If a majority of the electors voting on the question vote  
22 in the affirmative, then the tax shall be imposed at the rate  
23 set forth in the question.

24 For all regular elections held on or after August 23, 2019  
25 (the effective date of Public Act 101-455), the election  
26 authority must submit the question as follows:

1           (1) If the referendum is to expand the use of revenues  
2 from a currently imposed tax exclusively for school  
3 facility purposes to include school resource officers and  
4 mental health professionals, the question shall be in  
5 substantially the following form:

6           In addition to school facility purposes, shall  
7 (name of county) school districts be authorized to use  
8 revenues from the tax commonly referred to as the  
9 school facility sales tax that is currently imposed in  
10 (name of county) at a rate of (insert rate) for school  
11 resource officers and mental health professionals?

12           (2) If the referendum is to increase the rate of a tax  
13 currently imposed exclusively for school facility purposes  
14 at less than 1% and dedicate the additional revenues for  
15 school resource officers and mental health professionals,  
16 the question shall be in substantially the following form:

17           Shall the tax commonly referred to as the school  
18 facility sales tax that is currently imposed in (name  
19 of county) at the rate of (insert rate) be increased to  
20 a rate of (insert rate) with the additional revenues  
21 used exclusively for school resource officers and  
22 mental health professionals?

23           (3) If the referendum is to impose a tax in a county  
24 that has not previously imposed a tax under this Section  
25 exclusively for school facility purposes, the question  
26 shall be in substantially the following form:

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

6            (4) If the referendum is to impose a tax in a county  
7            that has not previously imposed a tax under this Section  
8            exclusively for school resource officers and mental health  
9            professionals, the question shall be in substantially the  
10           following form:

11           Shall a retailers' occupation tax and a service  
12           occupation tax (commonly referred to as a sales tax)  
13           be imposed in (name of county) at a rate of (insert  
14           rate) to be used exclusively for school resource  
15           officers and mental health professionals?

16           (5) If the referendum is to impose a tax in a county  
17           that has not previously imposed a tax under this Section  
18           exclusively for school facility purposes, school resource  
19           officers, and mental health professionals, the question  
20           shall be in substantially the following form:

21           Shall a retailers' occupation tax and a service  
22           occupation tax (commonly referred to as a sales tax)  
23           be imposed in (name of county) at a rate of (insert  
24           rate) to be used exclusively for school facility  
25           purposes, school resource officers, and mental health  
26           professionals?

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

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

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

11           (d) Except as otherwise provided, the Department shall  
12 immediately pay over to the State Treasurer, ex officio, as  
13 trustee, all taxes and penalties collected under this Section  
14 to be deposited into the School Facility Occupation Tax Fund,  
15 which shall be an unappropriated trust fund held outside the  
16 State treasury. Taxes and penalties collected on aviation fuel  
17 sold on or after December 1, 2019 and through December 31,  
18 2020, shall be immediately paid over by the Department to the  
19 State Treasurer, ex officio, as trustee, for deposit into the  
20 Local Government Aviation Trust Fund. The Department shall  
21 only pay moneys into the Local Government Aviation Trust Fund  
22 under this Section for so long as the revenue use requirements  
23 of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the  
24 county.

25           On or before the 25th day of each calendar month, the  
26 Department shall prepare and certify to the Comptroller the

1 disbursement of stated sums of money to the regional  
2 superintendents of schools in counties from which retailers or  
3 servicemen have paid taxes or penalties to the Department  
4 during the second preceding calendar month. The amount to be  
5 paid to each regional superintendent of schools and disbursed  
6 to him or her in accordance with Section 3-14.31 of the School  
7 Code, is equal to the amount (not including credit memoranda  
8 and not including taxes and penalties collected on aviation  
9 fuel sold on or after December 1, 2019 and through December 31,  
10 2020) collected from the county under this Section during the  
11 second preceding calendar month by the Department, (i) less 2%  
12 of that amount (except the amount collected on aviation fuel  
13 sold on or after December 1, 2019 and through December 31,  
14 2020), of which 50% shall be deposited into the Tax Compliance  
15 and Administration Fund and shall be used by the Department,  
16 subject to appropriation, to cover the costs of the Department  
17 in administering and enforcing the provisions of this Section,  
18 on behalf of the county, and 50% shall be distributed to the  
19 regional superintendent of schools to cover the costs in  
20 administering and enforcing the provisions of this Section;17  
21 (ii) plus an amount that the Department determines is  
22 necessary to offset any amounts that were erroneously paid to  
23 a different taxing body; (iii) less an amount equal to the  
24 amount of refunds made during the second preceding calendar  
25 month by the Department on behalf of the county; and (iv) less  
26 any amount that the Department determines is necessary to

1 offset any amounts that were payable to a different taxing  
2 body but were erroneously paid to the county. When certifying  
3 the amount of a monthly disbursement to a regional  
4 superintendent of schools under this Section, the Department  
5 shall increase or decrease the amounts by an amount necessary  
6 to offset any miscalculation of previous disbursements within  
7 the previous 6 months from the time a miscalculation is  
8 discovered.

9 Within 10 days after receipt by the Comptroller from the  
10 Department of the disbursement certification to the regional  
11 superintendents of the schools provided for in this Section,  
12 the Comptroller shall cause the orders to be drawn for the  
13 respective amounts in accordance with directions contained in  
14 the certification.

15 If the Department determines that a refund should be made  
16 under this Section to a claimant instead of issuing a credit  
17 memorandum, then the Department shall notify the Comptroller,  
18 who shall cause the order to be drawn for the amount specified  
19 and to the person named in the notification from the  
20 Department. The refund shall be paid by the Treasurer out of  
21 the School Facility Occupation Tax Fund or the Local  
22 Government Aviation Trust Fund, as appropriate.

23 (e) For the purposes of determining the local governmental  
24 unit whose tax is applicable, a retail sale by a producer of  
25 coal or another mineral mined in Illinois is a sale at retail  
26 at the place where the coal or other mineral mined in Illinois

1 is extracted from the earth. This subsection does not apply to  
2 coal or another mineral when it is delivered or shipped by the  
3 seller to the purchaser at a point outside Illinois so that the  
4 sale is exempt under the United States Constitution as a sale  
5 in interstate or foreign commerce.

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

10 (g) If a county board imposes a tax under this Section  
11 pursuant to a referendum held before August 23, 2011 (the  
12 effective date of Public Act 97-542) at a rate below the rate  
13 set forth in the question approved by a majority of electors of  
14 that county voting on the question as provided in subsection  
15 (c), then the county board may, by ordinance, increase the  
16 rate of the tax up to 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). If a county board  
19 imposes a tax under this Section pursuant to a referendum held  
20 before August 23, 2011 (the effective date of Public Act  
21 97-542), then the board may, by ordinance, discontinue or  
22 reduce the rate of the tax. 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 Public Act 97-542) and before  
25 August 23, 2019 (the effective date of Public Act 101-455),  
26 then the county board may reduce or discontinue the tax, but

1 only in accordance with subsection (h-5) of this Section. If a  
2 tax is imposed under this Section pursuant to a referendum  
3 held on or after August 23, 2019 (the effective date of Public  
4 Act 101-455), then the county board may reduce or discontinue  
5 the tax, but only in accordance with subsection (h-10). If,  
6 however, a school board issues bonds that are secured by the  
7 proceeds of the tax under this Section, then the county board  
8 may not reduce the tax rate or discontinue the tax if that rate  
9 reduction or discontinuance would adversely affect the school  
10 board's ability to pay the principal and interest on those  
11 bonds as they become due or necessitate the extension of  
12 additional property taxes to pay the principal and interest on  
13 those bonds. If the county board reduces the tax rate or  
14 discontinues the tax, then a referendum must be held in  
15 accordance with subsection (c) of this Section in order to  
16 increase the rate of the tax or to reimpose the discontinued  
17 tax.

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



1 before the first day of October, whereupon the Department  
2 shall proceed to administer and enforce the tax or change in  
3 the rate as of the first day of January next following the  
4 filing.

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

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

1 hereafter issued, including bonds or other obligations  
2 heretofore or hereafter issued to refund or to continue to  
3 refund bonds or other obligations issued, for school facility  
4 purposes, provided that the taxes levied to pay those bonds  
5 are abated by the amount of the taxes imposed under this  
6 Section that are used to pay those bonds. "School facility  
7 purposes" also includes fire prevention, safety, energy  
8 conservation, accessibility, school security, and specified  
9 repair purposes set forth under Section 17-2.11 of the School  
10 Code.

11 (h-5) A county board in a county where a tax has been  
12 imposed under this Section pursuant to a referendum held on or  
13 after August 23, 2011 (the effective date of Public Act  
14 97-542) and before August 23, 2019 (the effective date of  
15 Public Act 101-455) may, by ordinance or resolution, submit to  
16 the voters of the county the question of reducing or  
17 discontinuing the tax. In the ordinance or resolution, the  
18 county board shall certify the question to the proper election  
19 authority in accordance with the Election Code. The election  
20 authority must submit the question in substantially the  
21 following form:

22 Shall the school facility retailers' occupation tax  
23 and service occupation tax (commonly referred to as the  
24 "school facility sales tax") currently imposed in (name of  
25 county) at a rate of (insert rate) be (reduced to (insert  
26 rate)) (discontinued)?

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

5 (h-10) A county board in a county where a tax has been  
6 imposed under this Section pursuant to a referendum held on or  
7 after August 23, 2019 (the effective date of Public Act  
8 101-455) may, by ordinance or resolution, submit to the voters  
9 of the county the question of reducing or discontinuing the  
10 tax. In the ordinance or resolution, the county board shall  
11 certify the question to the proper election authority in  
12 accordance with the Election Code. The election authority must  
13 submit the question in substantially the following form:

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

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

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

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

1           (j) This Section may be cited as the County School  
2 Facility and Resources Occupation Tax Law.

3           (Source: P.A. 101-10, eff. 6-5-19; 101-455, eff. 8-23-19;  
4 101-604, eff. 12-13-19; 102-700, eff. 4-19-22; 102-1062, eff.  
5 7-1-22; revised 8-10-22.)

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