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1 AMENDMENT TO HOUSE BILL 1562

2 AMENDMENT NO. _____. Amend House Bill 1562 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Section
5 17-2.5 as follows:

6 (105 ILCS 5/17-2.5) (from Ch. 122, par. 17-2.5)

7 Sec. 17-2.5. Tax for tort immunity. The school board of any
8 district may by proper resolution levy an annual tax upon the
9 value of the taxable property within its territory as equalized
10 or assessed by the Department of Revenue at a rate that will
11 produce a sum sufficient (i) to pay the cost of settlements or
12 judgments under Section 9-102 of the Local Governmental and
13 Governmental Employees Tort Immunity Act, (ii) to pay the cost
14 of settlements or judgments under the federal Comprehensive
15 Environmental Response, Compensation, and Liability Act of
16 1980 and the Environmental Protection Act, but only until

1 December 31, 2010, (iii) ~~as now or hereafter amended,~~ to pay
2 the costs of protecting itself or its employees against
3 liability, property damage or loss, including all costs and
4 reserves of being a member of an insurance pool, under Section
5 9-103 of the Local Governmental and Governmental Employees Tort
6 Immunity ~~that~~ Act, (iv) to pay the costs of and principal and
7 interest on bonds issued under Section 9-105 of the Local
8 Governmental and Governmental Employees Tort Immunity ~~that~~
9 Act, (v) to pay tort judgments or settlements under Section
10 9-104 of the Local Governmental and Governmental Employees Tort
11 Immunity ~~that~~ Act to the extent necessary to discharge such
12 obligations, and (vi) to pay the cost of risk care management
13 programs in accordance with Section 9-107 of the Local
14 Governmental and Governmental Employees Tort Immunity ~~that~~
15 Act.

16 (Source: P.A. 86-668.)

17 Section 10. The Local Governmental and Governmental
18 Employees Tort Immunity Act is amended by changing Section
19 9-107 as follows:

20 (745 ILCS 10/9-107) (from Ch. 85, par. 9-107)

21 Sec. 9-107. Policy; tax levy.

22 (a) The General Assembly finds that the purpose of this
23 Section is to provide an extraordinary tax for funding expenses
24 relating to (i) tort liability, (ii) liability relating to

1 actions brought under the federal Comprehensive Environmental
2 Response, Compensation, and Liability Act of 1980 or the
3 Environmental Protection Act, but only until December 31, 2010,
4 (iii) insurance, and (iv) risk management programs. Thus, the
5 tax has been excluded from various limitations otherwise
6 applicable to tax levies. Notwithstanding the extraordinary
7 nature of the tax authorized by this Section, however, it has
8 become apparent that some units of local government are using
9 the tax revenue to fund expenses more properly paid from
10 general operating funds. These uses of the revenue are
11 inconsistent with the limited purpose of the tax authorization.

12 Therefore, the General Assembly declares, as a matter of
13 policy, that (i) the use of the tax revenue authorized by this
14 Section for purposes not expressly authorized under this Act is
15 improper and (ii) the provisions of this Section shall be
16 strictly construed consistent with this declaration and the
17 Act's express purposes.

18 (b) A local public entity may annually levy or have levied
19 on its behalf taxes upon all taxable property within its
20 territory at a rate that will produce a sum that will be
21 sufficient to: (i) pay the cost of insurance, individual or
22 joint self-insurance (including reserves thereon), including
23 all operating and administrative costs and expenses directly
24 associated therewith, claims services and risk management
25 directly attributable to loss prevention and loss reduction,
26 legal services directly attributable to the insurance,

1 self-insurance, or joint self-insurance program, and
2 educational, inspectional, and supervisory services directly
3 relating to loss prevention and loss reduction, participation
4 in a reciprocal insurer as provided in Sections 72, 76, and 81
5 of the Illinois Insurance Code, or participation in a
6 reciprocal insurer, all as provided in settlements or judgments
7 under Section 9-102, including all costs and reserves directly
8 attributable to being a member of an insurance pool, under
9 Section 9-103; (ii) pay the costs of and principal and interest
10 on bonds issued under Section 9-105; (iii) pay judgments and
11 settlements under Section 9-104 of this Act; ~~and~~ (iv) discharge
12 obligations under Section 34-18.1 of the ~~The~~ School Code; (v)
13 pay judgments and settlements under the federal Comprehensive
14 Environmental Response, Compensation, and Liability Act of
15 1980 and the Environmental Protection Act, but only until
16 December 31, 2010; ~~as now or hereafter amended,~~ and (vi) ~~to~~
17 pay the cost of risk management programs. Provided it complies
18 with any other applicable statutory requirements, the local
19 public entity may self-insure and establish reserves for
20 expected losses for any property damage or for any liability or
21 loss for which the local public entity is authorized to levy or
22 have levied on its behalf taxes for the purchase of insurance
23 or the payment of judgments or settlements under this Section.
24 The decision of the board to establish a reserve shall be based
25 on reasonable actuarial or insurance underwriting evidence and
26 subject to the limits and reporting provisions in Section

1 9-103.

2 If a school district was a member of a
3 joint-self-health-insurance cooperative that had more
4 liability in outstanding claims than revenue to pay those
5 claims, the school board of that district may by resolution
6 make a one-time transfer from any fund in which tort immunity
7 moneys are maintained to the fund or funds from which payments
8 to a joint-self-health-insurance cooperative can be or have
9 been made of an amount not to exceed the amount of the
10 liability claim that the school district owes to the
11 joint-self-health-insurance cooperative or that the school
12 district paid within the 2 years immediately preceding the
13 effective date of this amendatory Act of the 92nd General
14 Assembly.

15 Funds raised pursuant to this Section shall only be used
16 for the purposes specified in this Act, including protection
17 against and reduction of any liability or loss described
18 hereinabove and under Federal or State common or statutory law,
19 the Workers' Compensation Act, the Workers' Occupational
20 Diseases Act and the Unemployment Insurance Act. Funds raised
21 pursuant to this Section may be invested in any manner in which
22 other funds of local public entities may be invested under
23 Section 2 of the Public Funds Investment Act. Interest on such
24 funds shall be used only for purposes for which the funds can
25 be used or, if surplus, must be used for abatement of property
26 taxes levied by the local taxing entity.

1 A local public entity may enter into intergovernmental
2 contracts with a term of not to exceed 12 years for the
3 provision of joint self-insurance which contracts may include
4 an obligation to pay a proportional share of a general
5 obligation or revenue bond or other debt instrument issued by a
6 local public entity which is a party to the intergovernmental
7 contract and is authorized by the terms of the contract to
8 issue the bond or other debt instrument. Funds due under such
9 contracts shall not be considered debt under any constitutional
10 or statutory limitation and the local public entity may levy or
11 have levied on its behalf taxes to pay for its proportional
12 share under the contract. Funds raised pursuant to
13 intergovernmental contracts for the provision of joint
14 self-insurance may only be used for the payment of any cost,
15 liability or loss against which a local public entity may
16 protect itself or self-insure pursuant to Section 9-103 or for
17 the payment of which such entity may levy a tax pursuant to
18 this Section, including tort judgments or settlements, costs
19 associated with the issuance, retirement or refinancing of the
20 bonds or other debt instruments, the repayment of the principal
21 or interest of the bonds or other debt instruments, the costs
22 of the administration of the joint self-insurance fund,
23 consultant, and risk care management programs or the costs of
24 insurance. Any surplus returned to the local public entity
25 under the terms of the intergovernmental contract shall be used
26 only for purposes set forth in subsection (a) of Section 9-103

1 and Section 9-107 or for abatement of property taxes levied by
2 the local taxing entity.

3 Any tax levied under this Section shall be levied and
4 collected in like manner with the general taxes of the entity
5 and shall be exclusive of and in addition to the amount of tax
6 that entity is now or may hereafter be authorized to levy for
7 general purposes under any statute which may limit the amount
8 of tax which that entity may levy for general purposes. The
9 county clerk of the county in which any part of the territory
10 of the local taxing entity is located, in reducing tax levies
11 under the provisions of any Act concerning the levy and
12 extension of taxes, shall not consider any tax provided for by
13 this Section as a part of the general tax levy for the purposes
14 of the entity nor include such tax within any limitation of the
15 percent of the assessed valuation upon which taxes are required
16 to be extended for such entity.

17 With respect to taxes levied under this Section, either
18 before, on, or after the effective date of this amendatory Act
19 of 1994:

20 (1) Those taxes are excepted from and shall not be
21 included within the rate limitation imposed by law on taxes
22 levied for general corporate purposes by the local public
23 entity authorized to levy a tax under this Section.

24 (2) Those taxes that a local public entity has levied
25 in reliance on this Section and that are excepted under
26 paragraph (1) from the rate limitation imposed by law on

1 taxes levied for general corporate purposes by the local
2 public entity are not invalid because of any provision of
3 the law authorizing the local public entity's tax levy for
4 general corporate purposes that may be construed or may
5 have been construed to restrict or limit those taxes
6 levied, and those taxes are hereby validated. This
7 validation of taxes levied applies to all cases pending on
8 or after the effective date of this amendatory Act of 1994.

9 (3) Paragraphs (1) and (2) do not apply to a hospital
10 organized under Article 170 or 175 of the Township Code,
11 under the Town Hospital Act, or under the Township
12 Non-Sectarian Hospital Act and do not give any authority to
13 levy taxes on behalf of such a hospital in excess of the
14 rate limitation imposed by law on taxes levied for general
15 corporate purposes. A hospital organized under Article 170
16 or 175 of the Township Code, under the Town Hospital Act,
17 or under the Township Non-Sectarian Hospital Act is not
18 prohibited from levying taxes in support of tort liability
19 bonds if the taxes do not cause the hospital's aggregate
20 tax rate from exceeding the rate limitation imposed by law
21 on taxes levied for general corporate purposes.

22 Revenues derived from such tax shall be paid to the
23 treasurer of the local taxing entity as collected and used for
24 the purposes of this Section and of Section 9-102, 9-103, 9-104
25 or 9-105, as the case may be. If payments on account of such
26 taxes are insufficient during any year to meet such purposes,

1 the entity may issue tax anticipation warrants against the
2 current tax levy in the manner provided by statute.

3 (Source: P.A. 91-628, eff. 1-1-00; 92-732, eff. 7-25-02.)

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