



Sen. William R. Haine

**Filed: 5/27/2008**

09500SB0836sam002

LRB095 05544 RLJ 51496 a

1 AMENDMENT TO SENATE BILL 836

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 836, AS AMENDED,  
3 with reference to page and line numbers of Senate Amendment No.  
4 1, on page 8, by replacing lines 10 through 13 with the  
5 following:

6 "(14) To reimburse any county for costs advanced by the  
7 county for expenses that would have otherwise been paid out  
8 of the County Flood Prevention Occupation Tax Fund, had  
9 such fund been established at the time of the expenditure.  
10 Nothing in this Section shall be construed to permit a  
11 county to seek reimbursement from a flood prevention  
12 district for any expense related to levee maintenance,  
13 repair, improvement, construction, staff, operating  
14 expenses, levee or river-related scientific studies, the  
15 construction of facilities for any such purpose, or any  
16 other non-emergency levee related expense that occurred  
17 prior to an emergency situation involving the levees within

1       such county."; and

2       on page 46, line 9, after the period, by inserting the  
3       following:

4       "For the purposes of this subsection (a), the excess funds  
5       withdrawn from the Local Governmental and Governmental  
6       Employees Tort Immunity Fund may not be more than 90% of the  
7       balance of that fund on December 31, 2007."; and

8       on page 49, immediately below line 18, by inserting the  
9       following:

10       "Section 50. If and only if Senate Bill 2052 of the 95th  
11       General Assembly becomes law, then the Local Governmental and  
12       Governmental Employees Tort Immunity Act is amended by changing  
13       Section 9-107 as follows:

14             (745 ILCS 10/9-107) (from Ch. 85, par. 9-107)

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

16             (a) The General Assembly finds that the purpose of this  
17       Section is to provide an extraordinary tax for funding expenses  
18       relating to (i) tort liability, (ii) liability relating to  
19       actions brought under the federal Comprehensive Environmental  
20       Response, Compensation, and Liability Act of 1980 or the

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

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

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

1 relating to loss prevention and loss reduction, participation  
2 in a reciprocal insurer as provided in Sections 72, 76, and 81  
3 of the Illinois Insurance Code, or participation in a  
4 reciprocal insurer, all as provided in settlements or judgments  
5 under Section 9-102, including all costs and reserves directly  
6 attributable to being a member of an insurance pool, under  
7 Section 9-103; (ii) pay the costs of and principal and interest  
8 on bonds issued under Section 9-105; (iii) pay judgments and  
9 settlements under Section 9-104 of this Act; (iv) discharge  
10 obligations under Section 34-18.1 of the School Code; (v) pay  
11 judgments and settlements under the federal Comprehensive  
12 Environmental Response, Compensation, and Liability Act of  
13 1980 and the Environmental Protection Act, but only until  
14 December 31, 2010; (vi) pay the costs authorized by the  
15 Metro-East Sanitary District Act of 1974 as provided in  
16 subsection (a) of Section 5-1 of that Act (70 ILCS 2905/5-1);  
17 and (vii) ~~(vi)~~ pay the cost of risk management programs.  
18 Provided it complies with any other applicable statutory  
19 requirements, the local public entity may self-insure and  
20 establish reserves for expected losses for any property damage  
21 or for any liability or loss for which the local public entity  
22 is authorized to levy or have levied on its behalf taxes for  
23 the purchase of insurance or the payment of judgments or  
24 settlements under this Section. The decision of the board to  
25 establish a reserve shall be based on reasonable actuarial or  
26 insurance underwriting evidence and subject to the limits and

1 reporting provisions in Section 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. 95-244, eff. 8-17-07.)".