



Adopted in House Comm. on Oct 07, 2009

09600HB4624ham001

LRB096 14774 HLH 29653 a

1 AMENDMENT TO HOUSE BILL 4624

2 AMENDMENT NO. _____. Amend House Bill 4624 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing
5 Sections 5-1006 and 5-1007 as follows:

6 (55 ILCS 5/5-1006) (from Ch. 34, par. 5-1006)

7 Sec. 5-1006. Home Rule County Retailers' Occupation Tax
8 Law. Any county that is a home rule unit may impose a tax upon
9 all persons engaged in the business of selling tangible
10 personal property, other than an item of tangible personal
11 property titled or registered with an agency of this State's
12 government, at retail in the county on the gross receipts from
13 such sales made in the course of their business. If imposed,
14 this tax shall only be imposed in 1/4% increments. On and after
15 September 1, 1991, this additional tax may not be imposed on
16 the sales of food for human consumption which is to be consumed

1 off the premises where it is sold (other than alcoholic
2 beverages, soft drinks and food which has been prepared for
3 immediate consumption) and prescription and nonprescription
4 medicines, drugs, medical appliances and insulin, urine
5 testing materials, syringes and needles used by diabetics. The
6 tax imposed by a home rule county pursuant to this Section and
7 all civil penalties that may be assessed as an incident thereof
8 shall be collected and enforced by the State Department of
9 Revenue. The certificate of registration that is issued by the
10 Department to a retailer under the Retailers' Occupation Tax
11 Act shall permit the retailer to engage in a business that is
12 taxable under any ordinance or resolution enacted pursuant to
13 this Section without registering separately with the
14 Department under such ordinance or resolution or under this
15 Section. The Department shall have full power to administer and
16 enforce this Section; to collect all taxes and penalties due
17 hereunder; to dispose of taxes and penalties so collected in
18 the manner hereinafter provided; and to determine all rights to
19 credit memoranda arising on account of the erroneous payment of
20 tax or penalty hereunder. In the administration of, and
21 compliance with, this Section, the Department and persons who
22 are subject to this Section shall have the same rights,
23 remedies, privileges, immunities, powers and duties, and be
24 subject to the same conditions, restrictions, limitations,
25 penalties and definitions of terms, and employ the same modes
26 of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1d,

1 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-65 (in respect to all
2 provisions therein other than the State rate of tax), 4, 5, 5a,
3 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
4 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
5 Section 3-7 of the Uniform Penalty and Interest Act, as fully
6 as if those provisions were set forth herein.

7 No tax may be imposed by a home rule county pursuant to
8 this Section unless the county also imposes a tax at the same
9 rate pursuant to Section 5-1007.

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

17 Whenever the Department determines that a refund should be
18 made under this Section to a claimant instead of issuing a
19 credit memorandum, the Department shall notify the State
20 Comptroller, who shall cause the order to be drawn for the
21 amount specified and to the person named in the notification
22 from the Department. The refund shall be paid by the State
23 Treasurer out of the home rule county retailers' occupation tax
24 fund.

25 The Department shall forthwith pay over to the State
26 Treasurer, ex officio, as trustee, all taxes and penalties

1 collected hereunder. On or before the 25th day of each calendar
2 month, the Department shall prepare and certify to the
3 Comptroller the disbursement of stated sums of money to named
4 counties, the counties to be those from which retailers have
5 paid taxes or penalties hereunder to the Department during the
6 second preceding calendar month. The amount to be paid to each
7 county shall be the amount (not including credit memoranda)
8 collected hereunder during the second preceding calendar month
9 by the Department plus an amount the Department determines is
10 necessary to offset any amounts that were erroneously paid to a
11 different taxing body, and not including an amount equal to the
12 amount of refunds made during the second preceding calendar
13 month by the Department on behalf of such county, and not
14 including any amount which the Department determines is
15 necessary to offset any amounts which were payable to a
16 different taxing body but were erroneously paid to the county.
17 Within 10 days after receipt, by the Comptroller, of the
18 disbursement certification to the counties provided for in this
19 Section to be given to the Comptroller by the Department, the
20 Comptroller shall cause the orders to be drawn for the
21 respective amounts in accordance with the directions contained
22 in the certification.

23 In addition to the disbursement required by the preceding
24 paragraph, an allocation shall be made in March of each year to
25 each county that received more than \$500,000 in disbursements
26 under the preceding paragraph in the preceding calendar year.

1 The allocation shall be in an amount equal to the average
2 monthly distribution made to each such county under the
3 preceding paragraph during the preceding calendar year
4 (excluding the 2 months of highest receipts). The distribution
5 made in March of each year subsequent to the year in which an
6 allocation was made pursuant to this paragraph and the
7 preceding paragraph shall be reduced by the amount allocated
8 and disbursed under this paragraph in the preceding calendar
9 year. The Department shall prepare and certify to the
10 Comptroller for disbursement the allocations made in
11 accordance with this paragraph.

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

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

25 An ordinance or resolution imposing or discontinuing a tax
26 hereunder or effecting a change in the rate thereof shall be

1 adopted and a certified copy thereof filed with the Department
2 on or before the first day of June, whereupon the Department
3 shall proceed to administer and enforce this Section as of the
4 first day of September next following such adoption and filing.
5 Beginning January 1, 1992, an ordinance or resolution imposing
6 or discontinuing the tax hereunder or effecting a change in the
7 rate thereof shall be adopted and a certified copy thereof
8 filed with the Department on or before the first day of July,
9 whereupon the Department shall proceed to administer and
10 enforce this Section as of the first day of October next
11 following such adoption and filing. Beginning January 1, 1993,
12 an ordinance or resolution imposing or discontinuing the tax
13 hereunder or effecting a change in the rate thereof shall be
14 adopted and a certified copy thereof filed with the Department
15 on or before the first day of October, whereupon the Department
16 shall proceed to administer and enforce this Section as of the
17 first day of January next following such adoption and filing.
18 Beginning April 1, 1998, an ordinance or resolution imposing or
19 discontinuing the tax hereunder or effecting a change in the
20 rate thereof shall either (i) be adopted and a certified copy
21 thereof filed with the Department on or before the first day of
22 April, whereupon the Department shall proceed to administer and
23 enforce this Section as of the first day of July next following
24 the adoption and filing; or (ii) be adopted and a certified
25 copy thereof filed with the Department on or before the first
26 day of October, whereupon the Department shall proceed to

1 administer and enforce this Section as of the first day of
2 January next following the adoption and filing.

3 When certifying the amount of a monthly disbursement to a
4 county under this Section, the Department shall increase or
5 decrease such amount by an amount necessary to offset any
6 misallocation of previous disbursements. The offset amount
7 shall be the amount erroneously disbursed within the previous 6
8 months from the time a misallocation is discovered.

9 Except as otherwise provided in this Section, beginning on
10 the first day of the first month to occur not less than 30
11 calendar days after the effective date of this amendatory Act
12 of the 96th General Assembly, the maximum rate of any tax
13 imposed under this Section is 0.75%. If the rate of tax exceeds
14 0.75% on the effective date of this amendatory Act of the 96th
15 General Assembly, then the rate shall be reduced to 0.75%
16 beginning on the first day of the first month to occur not less
17 than 30 calendar days after the effective date of this
18 amendatory Act of the 96th General Assembly. The county board
19 of a county that is authorized to impose a tax under this
20 Section may increase the rate to more than 0.75%, but only
21 after the question is approved by the voters of the county at
22 an election held in accordance with the general election law.
23 The county board proposing the increase shall certify the
24 proposition to the proper election officials who shall submit
25 the proposition to the voters at an election in accordance with
26 the general election law. The proposition shall be in

1 substantially the following form:

2 "Shall (county) be authorized to increase its
3 retailers' occupation tax to (percent)?"

4 Votes shall be recorded as "Yes" or "No". If a majority of
5 the votes cast on the proposition are in favor of the increase,
6 then the increase is authorized.

7 A home rule unit may not impose retailers' occupation taxes
8 in a manner that is inconsistent with this Section. This
9 Section is a limitation of home rule powers and functions under
10 subsection (g) of Section 6 of Article VII of the Illinois
11 Constitution.

12 This Section shall be known and may be cited as the Home
13 Rule County Retailers' Occupation Tax Law.

14 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

15 (55 ILCS 5/5-1007) (from Ch. 34, par. 5-1007)

16 Sec. 5-1007. Home Rule County Service Occupation Tax Law.
17 The corporate authorities of a home rule county may impose a
18 tax upon all persons engaged, in such county, in the business
19 of making sales of service at the same rate of tax imposed
20 pursuant to Section 5-1006 of the selling price of all tangible
21 personal property transferred by such servicemen either in the
22 form of tangible personal property or in the form of real
23 estate as an incident to a sale of service. If imposed, such
24 tax shall only be imposed in 1/4% increments. On and after
25 September 1, 1991, this additional tax may not be imposed on

1 the sales of food for human consumption which is to be consumed
2 off the premises where it is sold (other than alcoholic
3 beverages, soft drinks and food which has been prepared for
4 immediate consumption) and prescription and nonprescription
5 medicines, drugs, medical appliances and insulin, urine
6 testing materials, syringes and needles used by diabetics. The
7 tax imposed by a home rule county pursuant to this Section and
8 all civil penalties that may be assessed as an incident thereof
9 shall be collected and enforced by the State Department of
10 Revenue. The certificate of registration which is issued by the
11 Department to a retailer under the Retailers' Occupation Tax
12 Act or under the Service Occupation Tax Act shall permit such
13 registrant to engage in a business which is taxable under any
14 ordinance or resolution enacted pursuant to this Section
15 without registering separately with the Department under such
16 ordinance or resolution or under this Section. The Department
17 shall have full power to administer and enforce this Section;
18 to collect all taxes and penalties due hereunder; to dispose of
19 taxes and penalties so collected in the manner hereinafter
20 provided; and to determine all rights to credit memoranda
21 arising on account of the erroneous payment of tax or penalty
22 hereunder. In the administration of, and compliance with, this
23 Section the Department and persons who are subject to this
24 Section shall have the same rights, remedies, privileges,
25 immunities, powers and duties, and be subject to the same
26 conditions, restrictions, limitations, penalties and

1 definitions of terms, and employ the same modes of procedure,
2 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
3 respect to all provisions therein other than the State rate of
4 tax), 4 (except that the reference to the State shall be to the
5 taxing county), 5, 7, 8 (except that the jurisdiction to which
6 the tax shall be a debt to the extent indicated in that Section
7 8 shall be the taxing county), 9 (except as to the disposition
8 of taxes and penalties collected, and except that the returned
9 merchandise credit for this county tax may not be taken against
10 any State tax), 10, 11, 12 (except the reference therein to
11 Section 2b of the Retailers' Occupation Tax Act), 13 (except
12 that any reference to the State shall mean the taxing county),
13 the first paragraph of Section 15, 16, 17, 18, 19 and 20 of the
14 Service Occupation Tax Act and Section 3-7 of the Uniform
15 Penalty and Interest Act, as fully as if those provisions were
16 set forth herein.

17 No tax may be imposed by a home rule county pursuant to
18 this Section unless such county also imposes a tax at the same
19 rate pursuant to Section 5-1006.

20 Persons subject to any tax imposed pursuant to the
21 authority granted in this Section may reimburse themselves for
22 their serviceman's tax liability hereunder by separately
23 stating such tax as an additional charge, which charge may be
24 stated in combination, in a single amount, with State tax which
25 servicemen are authorized to collect under the Service Use Tax
26 Act, pursuant to such bracket schedules as the Department may

1 prescribe.

2 Whenever the Department determines that a refund should be
3 made under this Section to a claimant instead of issuing credit
4 memorandum, the Department shall notify the State Comptroller,
5 who shall cause the order to be drawn for the amount specified,
6 and to the person named, in such notification from the
7 Department. Such refund shall be paid by the State Treasurer
8 out of the home rule county retailers' occupation tax fund.

9 The Department shall forthwith pay over to the State
10 Treasurer, ex-officio, as trustee, all taxes and penalties
11 collected hereunder. On or before the 25th day of each calendar
12 month, the Department shall prepare and certify to the
13 Comptroller the disbursement of stated sums of money to named
14 counties, the counties to be those from which suppliers and
15 servicemen have paid taxes or penalties hereunder to the
16 Department during the second preceding calendar month. The
17 amount to be paid to each county shall be the amount (not
18 including credit memoranda) collected hereunder during the
19 second preceding calendar month by the Department, and not
20 including an amount equal to the amount of refunds made during
21 the second preceding calendar month by the Department on behalf
22 of such county. Within 10 days after receipt, by the
23 Comptroller, of the disbursement certification to the counties
24 provided for in this Section to be given to the Comptroller by
25 the Department, the Comptroller shall cause the orders to be
26 drawn for the respective amounts in accordance with the

1 directions contained in such certification.

2 In addition to the disbursement required by the preceding
3 paragraph, an allocation shall be made in each year to each
4 county which received more than \$500,000 in disbursements under
5 the preceding paragraph in the preceding calendar year. The
6 allocation shall be in an amount equal to the average monthly
7 distribution made to each such county under the preceding
8 paragraph during the preceding calendar year (excluding the 2
9 months of highest receipts). The distribution made in March of
10 each year subsequent to the year in which an allocation was
11 made pursuant to this paragraph and the preceding paragraph
12 shall be reduced by the amount allocated and disbursed under
13 this paragraph in the preceding calendar year. The Department
14 shall prepare and certify to the Comptroller for disbursement
15 the allocations made in accordance with this paragraph.

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

20 An ordinance or resolution imposing or discontinuing a tax
21 hereunder or effecting a change in the rate thereof shall be
22 adopted and a certified copy thereof filed with the Department
23 on or before the first day of June, whereupon the Department
24 shall proceed to administer and enforce this Section as of the
25 first day of September next following such adoption and filing.
26 Beginning January 1, 1992, an ordinance or resolution imposing

1 or discontinuing the tax hereunder or effecting a change in the
2 rate thereof shall be adopted and a certified copy thereof
3 filed with the Department on or before the first day of July,
4 whereupon the Department shall proceed to administer and
5 enforce this Section as of the first day of October next
6 following such adoption and filing. Beginning January 1, 1993,
7 an ordinance or resolution imposing or discontinuing the tax
8 hereunder or effecting a change in the rate thereof shall be
9 adopted and a certified copy thereof filed with the Department
10 on or before the first day of October, whereupon the Department
11 shall proceed to administer and enforce this Section as of the
12 first day of January next following such adoption and filing.
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14 discontinuing the tax hereunder or effecting a change in the
15 rate thereof shall either (i) be adopted and a certified copy
16 thereof filed with the Department on or before the first day of
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20 copy thereof filed with the Department on or before the first
21 day of October, whereupon the Department shall proceed to
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23 January next following the adoption and filing.

24 Except as otherwise provided in this Section, beginning on
25 the first day of the first month to occur not less than 30
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1 of the 96th General Assembly, the maximum rate of any tax
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9 Section may increase the rate to more than 0.75%, but only
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12 The county board proposing the increase shall certify the
13 proposition to the proper election officials who shall submit
14 the proposition to the voters at an election in accordance with
15 the general election law. The proposition shall be in
16 substantially the following form:

17 "Shall (county) be authorized to increase its service
18 occupation tax to (percent)?"

19 Votes shall be recorded as "Yes" or "No". If a majority of
20 the votes cast on the proposition are in favor of the increase,
21 then the increase is authorized.

22 A home rule unit may not impose service occupation taxes in
23 a manner that is inconsistent with this Section. This Section
24 is a limitation of home rule powers and functions under
25 subsection (g) of Section 6 of Article VII of the Illinois
26 Constitution.

1 This Section shall be known and may be cited as the Home
2 Rule County Service Occupation Tax Law.

3 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

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