



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2846

Introduced 2/22/2011, by Rep. Patrick J. Verschoore - Roger L. Eddy

SYNOPSIS AS INTRODUCED:

30 ILCS 350/15	from Ch. 17, par. 6915
55 ILCS 5/5-1006.7	
105 ILCS 5/10-22.36	from Ch. 122, par. 10-22.36

Amends the Counties Code. Requires the imposition of a school facility occupation tax in a county if the electors of the county have approved a proposition for the tax. Provides that a school facility occupation tax imposed by approval of the electors may be reduced or discontinued if the electors have voted to reduce or discontinue the tax. Provides that the State will not limit or alter rights and powers so as to impair the rights and remedies of holders of bonds secured by proceeds of a school facility occupation tax. Amends the Local Government Debt Reform Act. Removes a sentence providing that a backdoor referendum is not required for alternate bonds if the proceeds backing the alternate bonds are realized from revenues obtained from a school facility occupation tax. Amends the School Code. Provides that a referendum shall not be required if the purchase, construction, or building of a school building is paid from funds received from the County School Facility Occupation Tax Law or from the proceeds of bonds secured by revenues obtained from that Law. Effective immediately.

LRB097 09014 PJG 49148 b

FISCAL NOTE ACT
MAY APPLY

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 Local Government Debt Reform Act is amended
5 by changing Section 15 as follows:

6 (30 ILCS 350/15) (from Ch. 17, par. 6915)

7 Sec. 15. Double-barrelled bonds. Whenever revenue bonds
8 have been authorized to be issued pursuant to applicable law or
9 whenever there exists for a governmental unit a revenue source,
10 the procedures set forth in this Section may be used by a
11 governing body. General obligation bonds may be issued in lieu
12 of such revenue bonds as authorized, and general obligation
13 bonds may be issued payable from any revenue source. Such
14 general obligation bonds may be referred to as "alternate
15 bonds". Alternate bonds may be issued without any referendum or
16 backdoor referendum except as provided in this Section, upon
17 the terms provided in Section 10 of this Act without reference
18 to other provisions of law, but only upon the conditions
19 provided in this Section. Alternate bonds shall not be regarded
20 as or included in any computation of indebtedness for the
21 purpose of any statutory provision or limitation except as
22 expressly provided in this Section.

23 Such conditions are:

1 (a) Alternate bonds shall be issued for a lawful corporate
2 purpose. If issued in lieu of revenue bonds, alternate bonds
3 shall be issued for the purposes for which such revenue bonds
4 shall have been authorized. If issued payable from a revenue
5 source in the manner hereinafter provided, which revenue source
6 is limited in its purposes or applications, then the alternate
7 bonds shall be issued only for such limited purposes or
8 applications. Alternate bonds may be issued payable from either
9 enterprise revenues or revenue sources, or both.

10 (b) Alternate bonds shall be subject to backdoor
11 referendum. The provisions of Section 5 of this Act shall apply
12 to such backdoor referendum, together with the provisions
13 hereof. The authorizing ordinance shall be published in a
14 newspaper of general circulation in the governmental unit.
15 Along with or as part of the authorizing ordinance, there shall
16 be published a notice of (1) the specific number of voters
17 required to sign a petition requesting that the issuance of the
18 alternate bonds be submitted to referendum, (2) the time when
19 such petition must be filed, (3) the date of the prospective
20 referendum, and (4), with respect to authorizing ordinances
21 adopted on or after January 1, 1991, a statement that
22 identifies any revenue source that will be used to pay debt
23 service on the alternate bonds. The clerk or secretary of the
24 governmental unit shall make a petition form available to
25 anyone requesting one. If no petition is filed with the clerk
26 or secretary within 30 days of publication of the authorizing

1 ordinance and notice, the alternate bonds shall be authorized
2 to be issued. But if within this 30 days period, a petition is
3 filed with such clerk or secretary signed by electors numbering
4 the greater of (i) 7.5% of the registered voters in the
5 governmental unit or (ii) 200 of those registered voters or 15%
6 of those registered voters, whichever is less, asking that the
7 issuance of such alternate bonds be submitted to referendum,
8 the clerk or secretary shall certify such question for
9 submission at an election held in accordance with the general
10 election law. The question on the ballot shall include a
11 statement of any revenue source that will be used to pay debt
12 service on the alternate bonds. The alternate bonds shall be
13 authorized to be issued if a majority of the votes cast on the
14 question at such election are in favor thereof provided that
15 notice of the bond referendum, if held before July 1, 1999, has
16 been given in accordance with the provisions of Section 12-5 of
17 the Election Code in effect at the time of the bond referendum,
18 at least 10 and not more than 45 days before the date of the
19 election, notwithstanding the time for publication otherwise
20 imposed by Section 12-5. Notices required in connection with
21 the submission of public questions on or after July 1, 1999
22 shall be as set forth in Section 12-5 of the Election Code.
23 Backdoor referendum proceedings for bonds and alternate bonds
24 to be issued in lieu of such bonds may be conducted at the same
25 time.

26 (c) To the extent payable from enterprise revenues, such

1 revenues shall have been determined by the governing body to be
2 sufficient to provide for or pay in each year to final maturity
3 of such alternate bonds all of the following: (1) costs of
4 operation and maintenance of the utility or enterprise, but not
5 including depreciation, (2) debt service on all outstanding
6 revenue bonds payable from such enterprise revenues, (3) all
7 amounts required to meet any fund or account requirements with
8 respect to such outstanding revenue bonds, (4) other
9 contractual or tort liability obligations, if any, payable from
10 such enterprise revenues, and (5) in each year, an amount not
11 less than 1.25 times debt service of all (i) alternate bonds
12 payable from such enterprise revenues previously issued and
13 outstanding and (ii) alternate bonds proposed to be issued. To
14 the extent payable from one or more revenue sources, such
15 sources shall have been determined by the governing body to
16 provide in each year, an amount not less than 1.25 times debt
17 service of all alternate bonds payable from such revenue
18 sources previously issued and outstanding and alternate bonds
19 proposed to be issued. The 1.25 figure in the preceding
20 sentence shall be reduced to 1.10 if the revenue source is a
21 governmental revenue source. The conditions enumerated in this
22 subsection (c) need not be met for that amount of debt service
23 provided for by the setting aside of proceeds of bonds or other
24 moneys at the time of the delivery of such bonds.
25 ~~Notwithstanding any other provision of this Section, a backdoor~~
26 ~~referendum is not required if the proceeds backing the debt are~~

1 ~~realized from revenues obtained from the County School Facility~~
2 ~~Occupation Tax Law under Section 5-1006.7 of the Counties Code.~~

3 (c-1) In the case of alternate bonds issued as variable
4 rate bonds (including refunding bonds), debt service shall be
5 projected based on the rate for the most recent date shown in
6 the 20 G.O. Bond Index of average municipal bond yields as
7 published in the most recent edition of The Bond Buyer
8 published in New York, New York (or any successor publication
9 or index, or if such publication or index is no longer
10 published, then any index of long-term municipal tax-exempt
11 bond yields selected by the governmental unit), as of the date
12 of determination referred to in subsection (c) of this Section.
13 Any interest or fees that may be payable to the provider of a
14 letter of credit, line of credit, surety bond, bond insurance,
15 or other credit enhancement relating to such alternate bonds
16 and any fees that may be payable to any remarketing agent need
17 not be taken into account for purposes of such projection. If
18 the governmental unit enters into an agreement in connection
19 with such alternate bonds at the time of issuance thereof
20 pursuant to which the governmental unit agrees for a specified
21 period of time to pay an amount calculated at an agreed-upon
22 rate or index based on a notional amount and the other party
23 agrees to pay the governmental unit an amount calculated at an
24 agreed-upon rate or index based on such notional amount,
25 interest shall be projected for such specified period of time
26 on the basis of the agreed-upon rate payable by the

1 governmental unit.

2 (d) The determination of the sufficiency of enterprise
3 revenues or a revenue source, as applicable, shall be supported
4 by reference to the most recent audit of the governmental unit,
5 which shall be for a fiscal year ending not earlier than 18
6 months previous to the time of issuance of the alternate bonds.
7 If such audit does not adequately show such enterprise revenues
8 or revenue source, as applicable, or if such enterprise
9 revenues or revenue source, as applicable, are shown to be
10 insufficient, then the determination of sufficiency shall be
11 supported by the report of an independent accountant or
12 feasibility analyst, the latter having a national reputation
13 for expertise in such matters, demonstrating the sufficiency of
14 such revenues and explaining, if appropriate, by what means the
15 revenues will be greater than as shown in the audit. Whenever
16 such sufficiency is demonstrated by reference to a schedule of
17 higher rates or charges for enterprise revenues or a higher tax
18 imposition for a revenue source, such higher rates, charges or
19 taxes shall have been properly imposed by an ordinance adopted
20 prior to the time of delivery of alternate bonds. The reference
21 to and acceptance of an audit or report, as the case may be,
22 and the determination of the governing body as to sufficiency
23 of enterprise revenues or a revenue source shall be conclusive
24 evidence that the conditions of this Section have been met and
25 that the alternate bonds are valid.

26 (e) The enterprise revenues or revenue source, as

1 applicable, shall be in fact pledged to the payment of the
2 alternate bonds; and the governing body shall covenant, to the
3 extent it is empowered to do so, to provide for, collect and
4 apply such enterprise revenues or revenue source, as
5 applicable, to the payment of the alternate bonds and the
6 provision of not less than an additional .25 (or .10 for
7 governmental revenue sources) times debt service. The pledge
8 and establishment of rates or charges for enterprise revenues,
9 or the imposition of taxes in a given rate or amount, as
10 provided in this Section for alternate bonds, shall constitute
11 a continuing obligation of the governmental unit with respect
12 to such establishment or imposition and a continuing
13 appropriation of the amounts received. All covenants relating
14 to alternate bonds and the conditions and obligations imposed
15 by this Section are enforceable by any bondholder of alternate
16 bonds affected, any taxpayer of the governmental unit, and the
17 People of the State of Illinois acting through the Attorney
18 General or any designee, and in the event that any such action
19 results in an order finding that the governmental unit has not
20 properly set rates or charges or imposed taxes to the extent it
21 is empowered to do so or collected and applied enterprise
22 revenues or any revenue source, as applicable, as required by
23 this Act, the plaintiff in any such action shall be awarded
24 reasonable attorney's fees. The intent is that such enterprise
25 revenues or revenue source, as applicable, shall be sufficient
26 and shall be applied to the payment of debt service on such

1 alternate bonds so that taxes need not be levied, or if levied
2 need not be extended, for such payment. Nothing in this Section
3 shall inhibit or restrict the authority of a governing body to
4 determine the lien priority of any bonds, including alternate
5 bonds, which may be issued with respect to any enterprise
6 revenues or revenue source.

7 In the event that alternate bonds shall have been issued
8 and taxes, other than a designated revenue source, shall have
9 been extended pursuant to the general obligation, full faith
10 and credit promise supporting such alternate bonds, then the
11 amount of such alternate bonds then outstanding shall be
12 included in the computation of indebtedness of the governmental
13 unit for purposes of all statutory provisions or limitations
14 until such time as an audit of the governmental unit shall show
15 that the alternate bonds have been paid from the enterprise
16 revenues or revenue source, as applicable, pledged thereto for
17 a complete fiscal year.

18 Alternate bonds may be issued to refund or advance refund
19 alternate bonds without meeting any of the conditions set forth
20 in this Section, except that the term of the refunding bonds
21 shall not be longer than the term of the refunded bonds and
22 that the debt service payable in any year on the refunding
23 bonds shall not exceed the debt service payable in such year on
24 the refunded bonds.

25 Once issued, alternate bonds shall be and forever remain
26 until paid or defeased the general obligation of the

1 governmental unit, for the payment of which its full faith and
2 credit are pledged, and shall be payable from the levy of taxes
3 as is provided in this Act for general obligation bonds.

4 The changes made by this amendatory Act of 1990 do not
5 affect the validity of bonds authorized before September 1,
6 1990.

7 (Source: P.A. 95-675, eff. 10-11-07.)

8 Section 10. The Counties Code is amended by changing
9 Section 5-1006.7 as follows:

10 (55 ILCS 5/5-1006.7)

11 Sec. 5-1006.7. School facility occupation taxes.

12 (a) In ~~The county board of~~ any county ~~may impose~~ a tax
13 shall be imposed upon all persons engaged in the business of
14 selling tangible personal property, other than personal
15 property titled or registered with an agency of this State's
16 government, at retail in the county on the gross receipts from
17 the sales made in the course of business to provide revenue to
18 be used exclusively for school facility purposes 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 ~~may~~ be imposed only in one-quarter percent
23 increments and may not exceed 1%.

24 This additional tax may not be imposed on the sale of food

1 for human consumption that is to be consumed off the premises
2 where it is sold (other than alcoholic beverages, soft drinks,
3 and food that has been prepared for immediate consumption) and
4 prescription and non-prescription medicines, drugs, medical
5 appliances and insulin, urine testing materials, syringes and
6 needles used by diabetics. The Department of Revenue has full
7 power to administer and enforce this subsection, to collect all
8 taxes and penalties due under this subsection, to dispose of
9 taxes and penalties so collected in the manner provided in this
10 subsection, and to determine all rights to credit memoranda
11 arising on account of the erroneous payment of a tax or penalty
12 under this subsection. The Department shall deposit all taxes
13 and penalties collected under this subsection into a special
14 fund created for that purpose.

15 In the administration of and compliance with this
16 subsection, the Department and persons who are subject to this
17 subsection (i) have the same rights, remedies, privileges,
18 immunities, powers, and duties, (ii) are subject to the same
19 conditions, restrictions, limitations, penalties, and
20 definitions of terms, and (iii) shall employ the same modes of
21 procedure as are set forth in Sections 1 through 1o, 2 through
22 2-70 (in respect to all provisions contained in those Sections
23 other than the State rate of tax), 2a through 2h, 3 (except as
24 to the disposition of taxes and penalties collected), 4, 5, 5a,
25 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
26 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act

1 and all provisions of the Uniform Penalty and Interest Act as
2 if those provisions were set forth in this subsection.

3 The certificate of registration that is issued by the
4 Department to a retailer under the Retailers' Occupation Tax
5 Act permits the retailer to engage in a business that is
6 taxable without registering separately with the Department
7 under an ordinance or resolution under this subsection.

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

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

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

1 diabetics.

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 all
7 taxes and penalties due under this subsection, to dispose of
8 taxes and penalties so collected in the manner provided in this
9 subsection, and to determine all rights to credit memoranda
10 arising on account of the erroneous payment of a tax or penalty
11 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), 10, 11, 12 (except the reference therein to Section
2 2b of the Retailers' Occupation Tax Act), 13 (except that any
3 reference to the State means the county), Section 15, 16, 17,
4 18, 19, and 20 of the Service Occupation Tax Act and all
5 provisions of the Uniform Penalty and Interest Act, as fully as
6 if those provisions were set forth herein.

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

14 (c) The tax under this Section may not be imposed until, ~~by~~
15 ~~ordinance or resolution of the county board,~~ the question of
16 imposing the tax has been submitted to the electors of the
17 county at a regular election and approved by a majority of the
18 electors voting on the question. Upon receipt of a resolution
19 ~~by the county board or~~ a resolution or resolutions by school
20 district boards that represent more than 50% ~~at least 51%~~ of
21 the student enrollment within the county, the regional
22 superintendent of schools of the county or the county board, as
23 the case may be, must certify the question to the proper
24 election authority for submission to the electors of the county
25 at the next regular election at which the question lawfully may
26 be submitted to the electors, all in accordance with the

1 Election Code.

2 If the county board certifies the question to the election
3 authority, the ~~The~~ election authority must submit the question
4 in substantially the 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 If the regional superintendent of schools for the county
11 certifies the question to the election authority, the election
12 authority must submit the question in substantially the
13 following form:

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

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

19 If a majority of the electors voting on the question vote
20 in the affirmative, then the tax shall be imposed at the rate
21 set forth in the question ~~the county may, thereafter, impose~~
22 ~~the tax.~~

23 For the purposes of this subsection (c), "enrollment" means
24 the head count of the students residing in the county on the
25 last school day of September of each year, which must be
26 reported on the Illinois State Board of Education Public School

1 Fall Enrollment/Housing Report.

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

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

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

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

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

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 ~~a~~
7 ~~county board to impose~~ a tax to be imposed upon the privilege
8 of engaging in any business that under the Constitution of the
9 United States may not be made the subject of taxation by this
10 State.

11 (g) If a county board imposes a tax under this Section
12 before the effective date of this amendatory Act of the 97th
13 General Assembly at a rate below the rate set forth in the
14 question approved by a majority of electors of that county
15 voting on the question as provided in subsection (c), then the
16 county board may, by ordinance, increase the rate of the tax up
17 to the rate set forth in the question approved by a majority of
18 electors of that county voting on the question as provided in
19 subsection (c). If a county board imposes a tax under this
20 Section before the effective date of this amendatory Act of the
21 97th General Assembly, then the board may, by ordinance,
22 discontinue or reduce the rate of the tax. If a tax is
23 otherwise imposed under this Section on or after the effective
24 date of this amendatory Act of the 97th General Assembly, then
25 the county board may reduce or discontinue the tax, but only in
26 accordance with subsection (h-5) of this Section. If, however,

1 a school board issues bonds that are secured ~~backed~~ by the
2 proceeds of the tax under this Section, then the county board
3 may not reduce the tax rate or discontinue the tax if that rate
4 reduction or discontinuance would adversely affect ~~inhibit~~ the
5 school board's ability to pay the principal and interest on
6 those bonds as they become due. If the county board reduces the
7 tax rate or discontinues the tax, then a referendum must be
8 held in accordance with subsection (c) of this Section in order
9 to increase the rate of the tax or to reimpose the discontinued
10 tax. The State of Illinois pledges to and agrees with the
11 holders of bonds secured by proceeds of the tax imposed under
12 this Section that the State will not limit or alter the rights
13 and powers set forth in this Section so as to impair the terms
14 of any contract made by school districts with those holders or
15 in any way impair the rights and remedies of those holders
16 until the bonds, together with interest thereon, with interest
17 on any unpaid installments of interest, and all costs and
18 expenses in connection with any action or proceedings by or on
19 behalf of such holders, are fully met and discharged.

20 The results of any election that imposes, reduces, or
21 discontinues ~~authorizes a proposition to impose~~ a tax under
22 this Section must be certified by the election authority, and
23 ~~or to change the rate of the tax along with an ordinance~~
24 ~~imposing the tax, or~~ any ordinance that increases or lowers the
25 rate or discontinues the tax, ~~7~~ must be certified by the county
26 clerk and, in each case, filed with the Illinois Department of

1 Revenue either (i) on or before the first day of April,
2 whereupon the Department shall proceed to administer and
3 enforce the tax or change in the rate as of the first day of
4 July next following the filing; or (ii) on or before the first
5 day of October, whereupon the Department shall proceed to
6 administer and enforce the tax or change in the rate as of the
7 first day of January next following the filing.

8 (h) For purposes of this Section, "school facility
9 purposes" means (i) the acquisition, development,
10 construction, reconstruction, rehabilitation, improvement,
11 financing, architectural planning, and installation of capital
12 facilities consisting of buildings, structures, and durable
13 equipment and for the acquisition and improvement of real
14 property and interest in real property required, or expected to
15 be required, in connection with the capital facilities and (ii)
16 the payment of bonds or other obligations heretofore or
17 hereafter issued, including bonds or other obligations
18 heretofore or hereafter issued to refund or to continue to
19 refund bonds or other obligations issued, for school facility
20 purposes, provided that the taxes levied to pay those bonds are
21 abated by the amount of the taxes imposed under this Section
22 that are used to pay those bonds. "School-facility purposes"
23 also includes fire prevention, safety, energy conservation,
24 disabled accessibility, school security, and specified repair
25 purposes set forth under Section 17-2.11 of the School Code.

26 (h-5) A county board in a county where a tax has been

1 imposed under this Section on or after the effective date of
2 this amendatory Act of the 97th General Assembly may, by
3 ordinance or resolution, submit to the voters of the county the
4 question of reducing or discontinuing the tax. In the ordinance
5 or resolution, the county board shall certify the question to
6 the proper election authority in accordance with the Election
7 Code. The election authority must submit the question in
8 substantially the following form:

9 "Shall the school facility retailers' occupation tax
10 and service occupation tax (commonly referred to as the
11 "school facility sales tax") currently imposed in (name of
12 county) at a rate of (insert rate) be (reduced to (insert
13 rate)) (discontinued)?"

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

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

19 (j) This Section may be cited as the County School Facility
20 Occupation Tax Law.

21 (Source: P.A. 95-675, eff. 10-11-07.)

22 Section 15. The School Code is amended by changing Section
23 10-22.36 as follows:

24 (105 ILCS 5/10-22.36) (from Ch. 122, par. 10-22.36)

1 Sec. 10-22.36. Buildings for school purposes. To build or
2 purchase a building for school classroom or instructional
3 purposes upon the approval of a majority of the voters upon the
4 proposition at a referendum held for such purpose or in
5 accordance with Section 17-2.11, 19-3.5, or 19-3.10. The board
6 may initiate such referendum by resolution. The board shall
7 certify the resolution and proposition to the proper election
8 authority for submission in accordance with the general
9 election law.

10 The questions of building one or more new buildings for
11 school purposes or office facilities, and issuing bonds for the
12 purpose of borrowing money to purchase one or more buildings or
13 sites for such buildings or office sites, to build one or more
14 new buildings for school purposes or office facilities or to
15 make additions and improvements to existing school buildings,
16 may be combined into one or more propositions on the ballot.

17 Before erecting, or purchasing or remodeling such a
18 building the board shall submit the plans and specifications
19 respecting heating, ventilating, lighting, seating, water
20 supply, toilets and safety against fire to the regional
21 superintendent of schools having supervision and control over
22 the district, for approval in accordance with Section 2-3.12.

23 Notwithstanding any of the foregoing, no referendum shall
24 be required if the purchase, construction, or building of any
25 such building ~~is completed~~ (1) occurs while the building is
26 being leased by the school district or (2) is paid with ~~with~~

1 ~~the expenditure of~~ (A) funds derived from the sale or
2 disposition of other buildings, land, or structures of the
3 school district or (B) funds received (i) as a grant under the
4 School Construction Law, or (ii) as gifts or donations,
5 provided that no funds to purchase, construct, or build
6 ~~complete~~ such building, other than lease payments, are derived
7 from the district's bonded indebtedness or the tax levy of the
8 district, ~~or (iii) from the County School Facility Occupation~~
9 ~~Tax Law under Section 5-1006.7 of the Counties Code.~~

10 Notwithstanding any of the foregoing, no referendum shall
11 be required if the purchase, construction, or building of any
12 such building is paid with funds received from the County
13 School Facility Occupation Tax Law under Section 5-1006.7 of
14 the Counties Code or from the proceeds of bonds or other debt
15 obligations secured by revenues obtained from that Law.

16 (Source: P.A. 95-675, eff. 10-11-07; 96-517, eff. 8-14-09.)

17 Section 97. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.