



Rep. Carol A. Sente

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LRB097 13904 KMW 66175 a

1 AMENDMENT TO HOUSE BILL 3859

2 AMENDMENT NO. _____. Amend House Bill 3859 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing
5 Section 5-1014.3 as follows:

6 (55 ILCS 5/5-1014.3)

7 Sec. 5-1014.3. Agreements to share or rebate occupation
8 taxes.

9 (a) On and after June 1, 2004, a county board shall not
10 enter into any tax revenue sharing agreement, as defined in
11 subsection (d) of this Section, ~~to share or rebate any portion~~
12 ~~of retailers' occupation taxes generated by retail sales of~~
13 ~~tangible personal property~~ if: (1) the tax on those retail
14 sales, absent the agreement, would have been paid to another
15 unit of local government; and (2) the retailer maintains,
16 within that other unit of local government, a retail location

1 from which the tangible personal property is delivered to
2 purchasers, or a warehouse from which the tangible personal
3 property is delivered to purchasers. Any unit of local
4 government denied retailers' occupation tax revenue because of
5 a tax revenue sharing ~~an~~ agreement that violates this Section
6 may file an action in circuit court against only the county.
7 Any tax revenue sharing agreement entered into prior to June 1,
8 2004 is not affected by this amendatory Act of the 93rd General
9 Assembly. Any unit of local government that prevails in the
10 circuit court action is entitled to damages in the amount of
11 the tax revenue it was denied as a result of the tax revenue
12 sharing agreement, statutory interest, costs, reasonable
13 attorney's fees, and an amount equal to 50% of the tax.

14 (b) On and after the effective date of this amendatory Act
15 of the 93rd General Assembly, a home rule unit shall not enter
16 into any tax revenue sharing agreement prohibited by this
17 Section. This Section is a denial and limitation of home rule
18 powers and functions under subsection (g) of Section 6 of
19 Article VII of the Illinois Constitution.

20 (c) Any county that enters into a tax revenue sharing
21 agreement must complete and submit a report by electronic
22 filing to the Department of Revenue within 7 days after the
23 execution of an agreement. Any county that has entered into a
24 tax revenue sharing agreement before the effective date of this
25 amendatory Act of the 97th General Assembly that has not been
26 terminated or expired as of the effective date of this

1 amendatory Act of the 97th General Assembly, shall submit a
2 report with respect to the agreements within 90 days after the
3 effective date of this amendatory Act of the 97th General
4 Assembly.

5 (d) "Tax revenue sharing agreement" means, without
6 limitation:

7 (1) any agreement between the county and any person,
8 business, or agent that provides for the sharing,
9 refunding, or rebating of any portion of any retailers'
10 occupation tax collected by the State;

11 (2) any agreement between the county and an
12 intermediary or between an intermediary and a taxpayer for
13 the purpose of sharing, refunding, or rebating to any
14 taxpayer any portion of any retailers' occupation tax
15 collected by the State; or

16 (3) any amendment to a tax revenue sharing agreement,
17 including, but not limited to, a change in the terms of the
18 agreement or a change or addition of a taxpayer.

19 (e) The report described in this Section shall be made on a
20 form to be supplied by the Department of Revenue and shall
21 contain the following:

22 (1) the names of the county and the business entering
23 into the agreement;

24 (2) the location or locations of the business within
25 the county;

26 (3) the form shall also contain a statement, to be

1 answered in the affirmative or negative, as to whether or
2 not the company maintains additional places of business in
3 the State other than those described pursuant to paragraph
4 (2);

5 (4) the terms of the agreement, including (i) the
6 manner in which the amount of any retailers' occupation tax
7 is to be shared, rebated, or refunded is to be determined
8 each year for the duration of the tax revenue sharing
9 agreement, (ii) the duration of the tax revenue sharing
10 agreement, and (iii) the name of any business who is not a
11 party to the agreement but who directly or indirectly
12 receives a share, refund, or rebate of the retailers'
13 occupation tax; and

14 (5) a copy of the tax revenue sharing agreement.

15 An updated report must be filed by the county within 7 days
16 after the execution of any amendment made to a tax revenue
17 sharing agreement.

18 Reports filed with the Department pursuant to this Section
19 shall not constitute tax returns.

20 (Source: P.A. 93-920, eff. 8-12-04.)

21 Section 10. The Illinois Municipal Code is amended by
22 changing Section 8-11-21 as follows:

23 (65 ILCS 5/8-11-21)

24 Sec. 8-11-21. Tax revenue sharing agreements ~~Agreements to~~

1 ~~share or rebate occupation taxes.~~

2 (a) On and after June 1, 2004, the corporate authorities of
3 a municipality shall not enter into any tax revenue sharing
4 agreement, as defined in subsection (d) of this Section, ~~to~~
5 ~~share or rebate any portion of retailers' occupation taxes~~
6 ~~generated by retail sales of tangible personal property~~ if: (1)
7 the tax on those retail sales, absent the agreement, would have
8 been paid to another unit of local government; and (2) the
9 retailer maintains, within that other unit of local government,
10 a retail location from which the tangible personal property is
11 delivered to purchasers, or a warehouse from which the tangible
12 personal property is delivered to purchasers. Any unit of local
13 government denied retailers' occupation tax revenue because of
14 a tax revenue sharing ~~an~~ agreement that violates this Section
15 may file an action in circuit court against only the
16 municipality. Any tax revenue sharing agreement entered into
17 prior to June 1, 2004 is not affected by this amendatory Act of
18 the 93rd General Assembly. Any unit of local government that
19 prevails in the circuit court action is entitled to damages in
20 the amount of the tax revenue it was denied as a result of the
21 tax revenue sharing agreement, statutory interest, costs,
22 reasonable attorney's fees, and an amount equal to 50% of the
23 tax.

24 (b) On and after the effective date of this amendatory Act
25 of the 93rd General Assembly, a home rule unit shall not enter
26 into any tax revenue sharing agreement prohibited by this

1 Section. This Section is a denial and limitation of home rule
2 powers and functions under subsection (g) of Section 6 of
3 Article VII of the Illinois Constitution.

4 (c) Any municipality that enters into a tax revenue sharing
5 agreement must complete and submit a report by electronic
6 filing to the Department of Revenue within 7 days after the
7 execution of an agreement. Any municipality that has entered
8 into a tax revenue sharing agreement before the effective date
9 of this amendatory Act of the 97th General Assembly that has
10 not been terminated or expired as of the effective date of this
11 amendatory Act of the 97th General Assembly, shall submit a
12 report with respect to the agreements within 90 days after the
13 effective date of this amendatory Act of the 97th General
14 Assembly.

15 (d) "Tax revenue sharing agreement" means, without
16 limitation:

17 (1) any agreement between the municipality and any
18 person, business, or agent that provides for the sharing,
19 refunding, or rebating of any portion of any retailers'
20 occupation tax collected by the State;

21 (2) any agreement between the municipality and an
22 intermediary or between an intermediary and a taxpayer for
23 the purpose of sharing, refunding, or rebating to any
24 taxpayer any portion of any retailers' occupation tax
25 collected by the State; or

26 (3) any amendment to a tax revenue sharing agreement,

1 including, but not limited to, a change in the terms of the
2 agreement or a change or addition of a taxpayer.

3 (e) The report described in this Section shall be made on a
4 form to be supplied by the Department of Revenue and shall
5 contain the following:

6 (1) the names of the municipality and the business
7 entering into the agreement;

8 (2) the location or locations of the business within
9 the municipality;

10 (3) the form shall also contain a statement, to be
11 answered in the affirmative or negative, as to whether or
12 not the company maintains additional places of business in
13 the State other than those described pursuant to paragraph
14 (2);

15 (4) the terms of the agreement, including (i) the
16 manner in which the amount of any retailers' occupation tax
17 is to be shared, rebated, or refunded is to be determined
18 each year for the duration of the tax revenue sharing
19 agreement, (ii) the duration of the tax revenue sharing
20 agreement, and (iii) the name of any business who is not a
21 party to the agreement but who directly or indirectly
22 receives a share, refund, or rebate of the retailers'
23 occupation tax; and

24 (5) a copy of the tax revenue sharing agreement.

25 An updated report must be filed by the municipality within
26 7 days after the execution of any amendment made to a tax

1 revenue sharing agreement.

2 Reports filed with the Department pursuant to this Section
3 shall not constitute tax returns.

4 (Source: P.A. 93-920, eff. 8-12-04.)

5 Section 90. The State Mandates Act is amended by adding
6 Section 8.36 as follows:

7 (30 ILCS 805/8.36 new)

8 Sec. 8.36. Exempt mandate. Notwithstanding Sections 6 and 8
9 of this Act, no reimbursement by the State is required for the
10 implementation of any mandate created by this amendatory Act of
11 the 97th General Assembly."