



Rep. Lisa M. Dugan

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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 agreement to share or rebate any portion of  
11 retailers' occupation taxes generated by retail sales of  
12 tangible personal property if: (1) the tax on those retail  
13 sales, absent the agreement, would have been paid to another  
14 unit of local government; and (2) the retailer maintains,  
15 within that other unit of local government, a retail location  
16 from which the tangible personal property is delivered to

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

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

18 (c) On and after July 1, 2012, a county board shall not  
19 enter into any tax revenue sharing agreement, as defined in  
20 subsection (d) of this Section, if: (1) the tax on those retail  
21 sales, absent the agreement, would have been paid to another  
22 unit of local government; and (2) the retailer maintains,  
23 within that other unit of local government, a retail location  
24 from which the tangible personal property is delivered to  
25 purchasers, or a warehouse from which the tangible personal  
26 property is delivered to purchasers. Any unit of local

1 government denied retailers' occupation tax revenue because of  
2 a tax revenue sharing agreement that violates this Section may  
3 file an action in circuit court against only the county. Any  
4 tax revenue sharing agreement entered into prior to July 1,  
5 2012 is not affected by this amendatory Act of the 97th General  
6 Assembly. Any unit of local government that prevails in the  
7 circuit court action is entitled to damages in the amount of  
8 the tax revenue it was denied as a result of the tax revenue  
9 sharing agreement, statutory interest, costs, reasonable  
10 attorney's fees, and an amount equal to 50% of the tax. Any  
11 county that enters into a tax revenue sharing agreement must  
12 complete and submit a report by electronic filing to the  
13 Department of Revenue within 7 days after the execution of an  
14 agreement. Any county that has entered into a tax revenue  
15 sharing agreement before the effective date of this amendatory  
16 Act of the 97th General Assembly that has not been terminated  
17 or expired as of the effective date of this amendatory Act of  
18 the 97th General Assembly, shall submit a report with respect  
19 to the agreements within 90 days after the effective date of  
20 this amendatory Act of the 97th General Assembly.

21 (d) "Tax revenue sharing agreement" means, without 7 days  
22 after the execution of any amendment made to a tax limitation:

23 (1) any agreement between the county and any person,  
24 business, or agent that provides for the sharing,  
25 refunding, or rebating of any portion of any retailers'  
26 occupation tax collected by the State;

1           (2) any agreement between the county and an  
2           intermediary or between an intermediary and a taxpayer for  
3           the purpose of sharing, refunding, or rebating to any  
4           taxpayer any portion of any retailers' occupation tax  
5           collected by the State; or

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

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

12           (1) the names of the county and the business entering  
13           into the agreement;

14           (2) the location or locations of the business within  
15           the county;

16           (3) the form shall also contain a statement, to be  
17           answered in the affirmative or negative, as to whether or  
18           not the company maintains additional places of business in  
19           the State other than those described pursuant to paragraph  
20           (2);

21           (4) the terms of the agreement, including (i) the  
22           manner in which the amount of any retailers' occupation tax  
23           is to be shared, rebated, or refunded is to be determined  
24           each year for the duration of the tax revenue sharing  
25           agreement, (ii) the duration of the tax revenue sharing  
26           agreement, and (iii) the name of any business who is not a

1 party to the agreement but who directly or indirectly  
2 receives a share, refund, or rebate of the retailers'  
3 occupation tax; and

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

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

8 Reports filed with the Department pursuant to this Section  
9 shall not constitute tax returns. But to the extent the  
10 Department is allowed or required by law to release any report  
11 or information provided to it by this Section, prior to any  
12 such release the Department shall remove any sales or other  
13 financial data provided that is identified with a specific  
14 retailer or seller.

15 (f) On and after July 1, 2012 a home rule unit shall not  
16 enter into any tax revenue sharing agreement prohibited by  
17 Subsection (c) of this Section. This Section is a denial and  
18 limitation of home rule powers and functions under subsection  
19 (g) of Section 6 of Article VII of the Illinois Constitution.

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

22 (b) On and after the effective date of this amendatory Act  
23 of the 93rd General Assembly, a home rule unit shall not enter  
24 into any agreement prohibited by this Section. This Section is  
25 a denial and limitation of home rule powers and functions under  
26 subsection (g) of Section 6 of Article VII of the Illinois

1 Constitution.

2 (c) On and after July 1, 2012, 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, if:

5 (1) the tax on those retail sales, absent the agreement, would  
6 have been paid to another unit of local government; and (2) the  
7 retailer maintains, within that other unit of local government,  
8 a retail location from which the tangible personal property is  
9 delivered to purchasers, or a warehouse from which the tangible  
10 personal property is delivered to purchasers. Any unit of local  
11 government denied retailers' occupation tax revenue because of  
12 a tax revenue sharing agreement that violates this Section may  
13 file an action in circuit court against only the municipality.  
14 Any tax revenue sharing agreement entered into prior to July 1,  
15 2012 is not affected by this amendatory Act of the 97th General  
16 Assembly. Any unit of local government that prevails in the  
17 circuit court action is entitled to damages in the amount of  
18 the tax revenue it was denied as a result of the tax revenue  
19 sharing agreement, statutory interest, costs, reasonable  
20 attorney's fees, and an amount equal to 50% of the tax.

21 Any municipality that enters into a tax revenue sharing  
22 agreement must complete and submit a report by electronic  
23 filing to the Department of Revenue within 7 days after the  
24 execution of an agreement. Any municipality that has entered  
25 into a tax revenue sharing agreement before the effective date  
26 of this amendatory Act of the 97th General Assembly that has

1 not been terminated or expired as of the effective date of this  
2 amendatory Act of the 97th General Assembly, shall submit a  
3 report with respect to the agreements within 90 days after the  
4 effective date of this amendatory Act of the 97th General  
5 Assembly.

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

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

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

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

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

23 (1) the names of the municipality and the business  
24 entering into the agreement;

25 (2) the location or locations of the business within  
26 the municipality;



1           (3) the form shall also contain a statement, to be  
2           answered in the affirmative or negative, as to whether or  
3           not the company maintains additional places of business in  
4           the State other than those described pursuant to paragraph  
5           (2);

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

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

16           An updated report must be filed by the municipality within  
17           revenue sharing agreement.

18           Reports filed with the Department pursuant to this Section  
19           shall not constitute tax returns. But to the extent the  
20           Department is allowed or required by law to release any report  
21           or information provided to it by this Section, prior to any  
22           such release the Department shall remove any sales or other  
23           financial data provided that is identified with a specific  
24           retailer or seller.

25           (f) On and after July 1, 2012 a home rule unit shall not  
26           enter into any tax revenue sharing agreement prohibited by

1 Subsection (c) of this Section. This Section is a denial and  
2 limitation of home rule powers and functions under subsection  
3 (g) of Section 6 of Article VII of the Illinois Constitution.  
4 (Source: P.A. 93-920, eff. 8-12-04.)

5 Section 15. 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  
9 8 of this Act, no reimbursement by the State is required for  
10 the implementation of any mandate created by this amendatory  
11 Act of the 97th General Assembly."