



Rep. Jim Sacia

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09700HB4940ham001

LRB097 18481 KMW 66257 a

1 AMENDMENT TO HOUSE BILL 4940

2 AMENDMENT NO. _____. Amend House Bill 4940 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing
5 Section 5-1006.7 as follows:

6 (55 ILCS 5/5-1006.7)

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

8 (a) In any county, a tax shall be imposed upon all persons
9 engaged in the business of selling tangible personal property,
10 other than personal property titled or registered with an
11 agency of this State's government, at retail in the county on
12 the gross receipts from the sales made in the course of
13 business to provide revenue to be used exclusively for school
14 facility purposes if a proposition for the tax has been
15 submitted to the electors of that county and approved by a
16 majority of those voting on the question as provided in

1 subsection (c). The tax under this Section shall be imposed
2 only in one-quarter percent increments and may not exceed 1%.

3 This additional tax may not be imposed on the sale of food
4 for human consumption that is to be consumed off the premises
5 where it is sold (other than alcoholic beverages, soft drinks,
6 and food that has been prepared for immediate consumption) and
7 prescription and non-prescription medicines, drugs, medical
8 appliances and insulin, urine testing materials, syringes and
9 needles used by diabetics. The Department of Revenue has full
10 power to administer and enforce this subsection, to collect all
11 taxes and penalties due under this subsection, to dispose of
12 taxes and penalties so collected in the manner provided in this
13 subsection, and to determine all rights to credit memoranda
14 arising on account of the erroneous payment of a tax or penalty
15 under this subsection. The Department shall deposit all taxes
16 and penalties collected under this subsection into a special
17 fund created for that purpose.

18 In the administration of and compliance with this
19 subsection, the Department and persons who are subject to this
20 subsection (i) have the same rights, remedies, privileges,
21 immunities, powers, and duties, (ii) are subject to the same
22 conditions, restrictions, limitations, penalties, and
23 definitions of terms, and (iii) shall employ the same modes of
24 procedure as are set forth in Sections 1 through 10, 2 through
25 2-70 (in respect to all provisions contained in those Sections
26 other than the State rate of tax), 2a through 2h, 3 (except as

1 to the disposition of taxes and penalties collected), 4, 5, 5a,
2 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
3 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act
4 and all provisions of the Uniform Penalty and Interest Act as
5 if those provisions were set forth in this subsection.

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

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

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

24 This tax may not be imposed on sales of food for human
25 consumption that is to be consumed off the premises where it is
26 sold (other than alcoholic beverages, soft drinks, and food

1 prepared for immediate consumption) and prescription and
2 non-prescription medicines, drugs, medical appliances and
3 insulin, urine testing materials, syringes, and needles used by
4 diabetics.

5 The tax imposed under this subsection and all civil
6 penalties that may be assessed as an incident thereof shall be
7 collected and enforced by the Department and deposited into a
8 special fund created for that purpose. The Department has full
9 power to administer and enforce this subsection, to collect all
10 taxes and penalties due under this subsection, to dispose of
11 taxes and penalties so collected in the manner provided in this
12 subsection, and to determine all rights to credit memoranda
13 arising on account of the erroneous payment of a tax or penalty
14 under this subsection.

15 In the administration of and compliance with this
16 subsection, the Department and persons who are subject to this
17 subsection shall (i) have the same rights, remedies,
18 privileges, immunities, powers and duties, (ii) be subject to
19 the same conditions, restrictions, limitations, penalties and
20 definition of terms, and (iii) employ the same modes of
21 procedure as are set forth in Sections 2 (except that that
22 reference to State in the definition of supplier maintaining a
23 place of business in this State means the county), 2a through
24 2d, 3 through 3-50 (in respect to all provisions contained in
25 those Sections other than the State rate of tax), 4 (except
26 that the reference to the State shall be to the county), 5, 7,

1 8 (except that the jurisdiction to which the tax is a debt to
2 the extent indicated in that Section 8 is the county), 9
3 (except as to the disposition of taxes and penalties
4 collected), 10, 11, 12 (except the reference therein to Section
5 2b of the Retailers' Occupation Tax Act), 13 (except that any
6 reference to the State means the county), Section 15, 16, 17,
7 18, 19, and 20 of the Service Occupation Tax Act and all
8 provisions of the Uniform Penalty and Interest Act, as fully as
9 if those provisions were set forth herein.

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

17 (c) The tax under this Section may not be imposed until the
18 question of imposing the tax has been submitted to the electors
19 of the county at a regular election and approved by a majority
20 of the electors voting on the question. For all regular
21 elections held prior to August 23, 2011 ~~the effective date of~~
22 ~~this amendatory Act of the 97th General Assembly,~~ upon a
23 resolution by the county board or a resolution by school
24 district boards that represent at least 51% of the student
25 enrollment within the county, the county board must certify the
26 question to the proper election authority in accordance with

1 the Election Code.

2 For all regular elections held prior to August 23, 2011 ~~the~~
3 ~~effective date of this amendatory Act of the 97th General~~
4 ~~Assembly~~, the election authority must submit the question in
5 substantially the following form:

6 Shall (name of county) be authorized to impose a
7 retailers' occupation tax and a service occupation tax
8 (commonly referred to as a "sales tax") at a rate of
9 (insert rate) to be used exclusively for school facility
10 purposes?

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

12 If a majority of the electors voting on the question vote
13 in the affirmative, then the county may, thereafter, impose the
14 tax. If a county board imposes a tax under this Section
15 pursuant to a referendum held before August 23, 2011 at a rate
16 below the rate set forth in the question approved by a majority
17 of electors of that county voting on the question as provided
18 in subsection (c), then, notwithstanding the imposition of the
19 tax by the county board at such rate, beginning on the January
20 1 or July 1 as set forth in subsection (g), the tax shall be
21 imposed at the rate set forth in the question approved by a
22 majority of electors of that county.

23 For all regular elections held on or after August 23, 2011
24 ~~the effective date of this amendatory Act of the 97th General~~
25 ~~Assembly~~, the regional superintendent of schools for the county
26 must, upon receipt of a resolution or resolutions of school

1 district boards that represent more than 50% of the student
2 enrollment within the county, certify the question to the
3 proper election authority for submission to the electors of the
4 county at the next regular election at which the question
5 lawfully may be submitted to the electors, all in accordance
6 with the Election Code.

7 For all regular elections held on or after August 23, 2011
8 ~~the effective date of this amendatory Act of the 97th General~~
9 ~~Assembly~~, the election authority must submit the question in
10 substantially the following form:

11 Shall a retailers' occupation tax and a service
12 occupation tax (commonly referred to as a "sales tax") be
13 imposed in (name of county) at a rate of (insert rate) to
14 be used exclusively for school facility purposes?

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

16 If a majority of the electors voting on the question vote
17 in the affirmative, then the tax shall be imposed at the rate
18 set forth in the question.

19 For the purposes of this subsection (c), "enrollment" means
20 the head count of the students residing in the county on the
21 last school day of September of each year, which must be
22 reported on the Illinois State Board of Education Public School
23 Fall Enrollment/Housing Report.

24 (d) The Department shall immediately pay over to the State
25 Treasurer, ex officio, as trustee, all taxes and penalties
26 collected under this Section to be deposited into the School

1 Facility Occupation Tax Fund, which shall be an unappropriated
2 trust fund held outside the State treasury.

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

1 regional superintendent of schools under this Section, the
2 Department shall increase or decrease the amounts by an amount
3 necessary to offset any miscalculation of previous
4 disbursements within the previous 6 months from the time a
5 miscalculation is discovered.

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

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

19 (e) For the purposes of determining the local governmental
20 unit whose tax is applicable, a retail sale by a producer of
21 coal or another mineral mined in Illinois is a sale at retail
22 at the place where the coal or other mineral mined in Illinois
23 is extracted from the earth. This subsection does not apply to
24 coal or another mineral when it is delivered or shipped by the
25 seller to the purchaser at a point outside Illinois so that the
26 sale is exempt under the United States Constitution as a sale

1 in interstate or foreign commerce.

2 (f) Nothing in this Section may be construed to authorize a
3 tax to be imposed upon the privilege of engaging in any
4 business that under the Constitution of the United States may
5 not be made the subject of taxation by this State.

6 ~~(g) If a county board imposes a tax under this Section~~
7 ~~pursuant to a referendum held before the effective date of this~~
8 ~~amendatory Act of the 97th General Assembly at a rate below the~~
9 ~~rate set forth in the question approved by a majority of~~
10 ~~electors of that county voting on the question as provided in~~
11 ~~subsection (c), then the county board may, by ordinance,~~
12 ~~increase the rate of the tax up to the rate set forth in the~~
13 ~~question approved by a majority of electors of that county~~
14 ~~voting on the question as provided in subsection (c). If a~~
15 ~~county board imposes a tax under this Section pursuant to a~~
16 ~~referendum held before August 23, 2011 at the rate set forth in~~
17 ~~the question approved by a majority of electors of that county~~
18 ~~voting on the question as provided in subsection (c), the~~
19 ~~effective date of this amendatory Act of the 97th General~~
20 ~~Assembly, then the board may, by ordinance, discontinue or~~
21 ~~reduce the rate of the tax. If a county board imposes a tax~~
22 ~~under this Section pursuant to a referendum held before August~~
23 ~~23, 2011 at a rate below the rate set forth in the question~~
24 ~~approved by a majority of electors of that county voting on the~~
25 ~~question as provided in subsection (c), and the tax is then~~
26 ~~increased by this amendatory Act of the 97th General Assembly~~

1 to the rate set forth in the question, then the county board
2 may reduce or discontinue the tax, but only in accordance with
3 subsection h-5 of this Section. If a tax is imposed under this
4 Section pursuant to a referendum held on or after August 23,
5 2011 ~~the effective date of this amendatory Act of the 97th~~
6 ~~General Assembly,~~ then the county board may reduce or
7 discontinue the tax, but only in accordance with subsection
8 (h-5) of this Section. If, however, a school board issues bonds
9 that are secured by the proceeds of the tax under this Section,
10 then the county board may not reduce the tax rate or
11 discontinue the tax if that rate reduction or discontinuance
12 would adversely affect the school board's ability to pay the
13 principal and interest on those bonds as they become due or
14 necessitate the extension of additional property taxes to pay
15 the principal and interest on those bonds. If the county board
16 reduces the tax rate or discontinues the tax, then a referendum
17 must be held in accordance with subsection (c) of this Section
18 in order to increase the rate of the tax or to reimpose the
19 discontinued tax.

20 The results of any election that imposes, reduces, or
21 discontinues a tax under this Section must be certified by the
22 election authority, and any ordinance that ~~increases or~~ lowers
23 the rate or discontinues the tax must be certified by the
24 county clerk and, in each case, filed with the Illinois
25 Department of Revenue either (i) on or before the first day of
26 April, whereupon the Department shall proceed to administer and

1 enforce the tax or change in the rate as of the first day of
2 July next following the filing; or (ii) on or before the first
3 day of October, whereupon the Department shall proceed to
4 administer and enforce the tax or change in the rate as of the
5 first day of January next following the filing. In any county
6 where the rate of the tax is increased pursuant to subsection
7 (c) of this Section, and the effective date of this amendatory
8 Act of the 97th General Assembly is on or before the first day
9 of April, then the Department shall proceed to administer and
10 enforce the change in the rate of the tax beginning on the
11 first day of July after the effective date of this amendatory
12 Act of the 97th General Assembly. In any county where the rate
13 of the tax is increased pursuant to subsection (c) of this
14 Section, and the effective date of this amendatory Act of the
15 97th General Assembly is on or before the first day of October,
16 then the Department shall proceed to administer and enforce the
17 change in the rate of the tax beginning on the first day of
18 January after the effective date of this amendatory Act of the
19 97th General Assembly.

20 (h) For purposes of this Section, "school facility
21 purposes" means (i) the acquisition, development,
22 construction, reconstruction, rehabilitation, improvement,
23 financing, architectural planning, and installation of capital
24 facilities consisting of buildings, structures, and durable
25 equipment and for the acquisition and improvement of real
26 property and interest in real property required, or expected to

1 be required, in connection with the capital facilities and (ii)
2 the payment of bonds or other obligations heretofore or
3 hereafter issued, including bonds or other obligations
4 heretofore or hereafter issued to refund or to continue to
5 refund bonds or other obligations issued, for school facility
6 purposes, provided that the taxes levied to pay those bonds are
7 abated by the amount of the taxes imposed under this Section
8 that are used to pay those bonds. "School-facility purposes"
9 also includes fire prevention, safety, energy conservation,
10 disabled accessibility, school security, and specified repair
11 purposes set forth under Section 17-2.11 of the School Code.

12 (h-5) A county board in a county where a tax has been (i)
13 imposed under this Section pursuant to a referendum held on or
14 after August 23, 2011, or (ii) increased pursuant to this
15 amendatory Act of the 97th General Assembly ~~the effective date~~
16 ~~of this amendatory Act of the 97th General Assembly~~ may, by
17 ordinance or resolution, submit to the voters of the county the
18 question of reducing or discontinuing the tax. In the ordinance
19 or resolution, the county board shall certify the question to
20 the proper election authority in accordance with the Election
21 Code. The election authority must submit the question in
22 substantially the following form:

23 Shall the school facility retailers' occupation tax
24 and service occupation tax (commonly referred to as the
25 "school facility sales tax") currently imposed in (name of
26 county) at a rate of (insert rate) be (reduced to (insert

1 rate)) (discontinued)?

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

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

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

9 (Source: P.A. 97-542, eff. 8-23-11; revised 11-18-11.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."