



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5186

Introduced 2/8/2012, by Rep. Rita Mayfield

SYNOPSIS AS INTRODUCED:

105 ILCS 5/17-2.5
745 ILCS 10/9-107

from Ch. 122, par. 17-2.5
from Ch. 85, par. 9-107

Amends the School Code and the Local Governmental and Governmental Employees Tort Immunity Act. Allows school boards and local public entities to levy a tort immunity tax for the purpose of paying judgments and settlements under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Environmental Protection Act until December 31, 2014 (instead of December 31, 2010).

LRB097 15679 NHT 60821 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning environmental liability.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 17-2.5 as follows:

6 (105 ILCS 5/17-2.5) (from Ch. 122, par. 17-2.5)

7 Sec. 17-2.5. Tax for tort immunity. The school board of any
8 district may by proper resolution levy an annual tax upon the
9 value of the taxable property within its territory as equalized
10 or assessed by the Department of Revenue at a rate that will
11 produce a sum sufficient (i) to pay the cost of settlements or
12 judgments under Section 9-102 of the Local Governmental and
13 Governmental Employees Tort Immunity Act, (ii) to pay the cost
14 of settlements or judgments under the federal Comprehensive
15 Environmental Response, Compensation, and Liability Act of
16 1980 and the Environmental Protection Act, but only until
17 December 31, 2014 ~~2010~~, (iii) to pay the costs of protecting
18 itself or its employees against liability, property damage or
19 loss, including all costs and reserves of being a member of an
20 insurance pool, under Section 9-103 of the Local Governmental
21 and Governmental Employees Tort Immunity Act, (iv) to pay the
22 costs of and principal and interest on bonds issued under
23 Section 9-105 of the Local Governmental and Governmental

1 Employees Tort Immunity Act, (v) to pay tort judgments or
2 settlements under Section 9-104 of the Local Governmental and
3 Governmental Employees Tort Immunity Act to the extent
4 necessary to discharge such obligations, and (vi) to pay the
5 cost of risk care management programs in accordance with
6 Section 9-107 of the Local Governmental and Governmental
7 Employees Tort Immunity Act.

8 (Source: P.A. 95-244, eff. 8-17-07.)

9 Section 10. The Local Governmental and Governmental
10 Employees Tort Immunity Act is amended by changing Section
11 9-107 as follows:

12 (745 ILCS 10/9-107) (from Ch. 85, par. 9-107)

13 Sec. 9-107. Policy; tax levy.

14 (a) The General Assembly finds that the purpose of this
15 Section is to provide an extraordinary tax for funding expenses
16 relating to (i) tort liability, (ii) liability relating to
17 actions brought under the federal Comprehensive Environmental
18 Response, Compensation, and Liability Act of 1980 or the
19 Environmental Protection Act, but only until December 31, 2010,
20 (iii) insurance, and (iv) risk management programs. Thus, the
21 tax has been excluded from various limitations otherwise
22 applicable to tax levies. Notwithstanding the extraordinary
23 nature of the tax authorized by this Section, however, it has
24 become apparent that some units of local government are using

1 the tax revenue to fund expenses more properly paid from
2 general operating funds. These uses of the revenue are
3 inconsistent with the limited purpose of the tax authorization.

4 Therefore, the General Assembly declares, as a matter of
5 policy, that (i) the use of the tax revenue authorized by this
6 Section for purposes not expressly authorized under this Act is
7 improper and (ii) the provisions of this Section shall be
8 strictly construed consistent with this declaration and the
9 Act's express purposes.

10 (b) A local public entity may annually levy or have levied
11 on its behalf taxes upon all taxable property within its
12 territory at a rate that will produce a sum that will be
13 sufficient to: (i) pay the cost of insurance, individual or
14 joint self-insurance (including reserves thereon), including
15 all operating and administrative costs and expenses directly
16 associated therewith, claims services and risk management
17 directly attributable to loss prevention and loss reduction,
18 legal services directly attributable to the insurance,
19 self-insurance, or joint self-insurance program, and
20 educational, inspectional, and supervisory services directly
21 relating to loss prevention and loss reduction, participation
22 in a reciprocal insurer as provided in Sections 72, 76, and 81
23 of the Illinois Insurance Code, or participation in a
24 reciprocal insurer, all as provided in settlements or judgments
25 under Section 9-102, including all costs and reserves directly
26 attributable to being a member of an insurance pool, under

1 Section 9-103; (ii) pay the costs of and principal and interest
2 on bonds issued under Section 9-105; (iii) pay judgments and
3 settlements under Section 9-104 of this Act; (iv) discharge
4 obligations under Section 34-18.1 of the School Code; (v) pay
5 judgments and settlements under the federal Comprehensive
6 Environmental Response, Compensation, and Liability Act of
7 1980 and the Environmental Protection Act, but only until
8 December 31, 2014 ~~2010~~; (vi) pay the costs authorized by the
9 Metro-East Sanitary District Act of 1974 as provided in
10 subsection (a) of Section 5-1 of that Act (70 ILCS 2905/5-1);
11 and (vii) pay the cost of risk management programs. Provided it
12 complies with any other applicable statutory requirements, the
13 local public entity may self-insure and establish reserves for
14 expected losses for any property damage or for any liability or
15 loss for which the local public entity is authorized to levy or
16 have levied on its behalf taxes for the purchase of insurance
17 or the payment of judgments or settlements under this Section.
18 The decision of the board to establish a reserve shall be based
19 on reasonable actuarial or insurance underwriting evidence and
20 subject to the limits and reporting provisions in Section
21 9-103.

22 If a school district was a member of a
23 joint-self-health-insurance cooperative that had more
24 liability in outstanding claims than revenue to pay those
25 claims, the school board of that district may by resolution
26 make a one-time transfer from any fund in which tort immunity

1 moneys are maintained to the fund or funds from which payments
2 to a joint-self-health-insurance cooperative can be or have
3 been made of an amount not to exceed the amount of the
4 liability claim that the school district owes to the
5 joint-self-health-insurance cooperative or that the school
6 district paid within the 2 years immediately preceding the
7 effective date of this amendatory Act of the 92nd General
8 Assembly.

9 Funds raised pursuant to this Section shall only be used
10 for the purposes specified in this Act, including protection
11 against and reduction of any liability or loss described
12 hereinabove and under Federal or State common or statutory law,
13 the Workers' Compensation Act, the Workers' Occupational
14 Diseases Act and the Unemployment Insurance Act. Funds raised
15 pursuant to this Section may be invested in any manner in which
16 other funds of local public entities may be invested under
17 Section 2 of the Public Funds Investment Act. Interest on such
18 funds shall be used only for purposes for which the funds can
19 be used or, if surplus, must be used for abatement of property
20 taxes levied by the local taxing entity.

21 A local public entity may enter into intergovernmental
22 contracts with a term of not to exceed 12 years for the
23 provision of joint self-insurance which contracts may include
24 an obligation to pay a proportional share of a general
25 obligation or revenue bond or other debt instrument issued by a
26 local public entity which is a party to the intergovernmental

1 contract and is authorized by the terms of the contract to
2 issue the bond or other debt instrument. Funds due under such
3 contracts shall not be considered debt under any constitutional
4 or statutory limitation and the local public entity may levy or
5 have levied on its behalf taxes to pay for its proportional
6 share under the contract. Funds raised pursuant to
7 intergovernmental contracts for the provision of joint
8 self-insurance may only be used for the payment of any cost,
9 liability or loss against which a local public entity may
10 protect itself or self-insure pursuant to Section 9-103 or for
11 the payment of which such entity may levy a tax pursuant to
12 this Section, including tort judgments or settlements, costs
13 associated with the issuance, retirement or refinancing of the
14 bonds or other debt instruments, the repayment of the principal
15 or interest of the bonds or other debt instruments, the costs
16 of the administration of the joint self-insurance fund,
17 consultant, and risk care management programs or the costs of
18 insurance. Any surplus returned to the local public entity
19 under the terms of the intergovernmental contract shall be used
20 only for purposes set forth in subsection (a) of Section 9-103
21 and Section 9-107 or for abatement of property taxes levied by
22 the local taxing entity.

23 Any tax levied under this Section shall be levied and
24 collected in like manner with the general taxes of the entity
25 and shall be exclusive of and in addition to the amount of tax
26 that entity is now or may hereafter be authorized to levy for

1 general purposes under any statute which may limit the amount
2 of tax which that entity may levy for general purposes. The
3 county clerk of the county in which any part of the territory
4 of the local taxing entity is located, in reducing tax levies
5 under the provisions of any Act concerning the levy and
6 extension of taxes, shall not consider any tax provided for by
7 this Section as a part of the general tax levy for the purposes
8 of the entity nor include such tax within any limitation of the
9 percent of the assessed valuation upon which taxes are required
10 to be extended for such entity.

11 With respect to taxes levied under this Section, either
12 before, on, or after the effective date of this amendatory Act
13 of 1994:

14 (1) Those taxes are excepted from and shall not be
15 included within the rate limitation imposed by law on taxes
16 levied for general corporate purposes by the local public
17 entity authorized to levy a tax under this Section.

18 (2) Those taxes that a local public entity has levied
19 in reliance on this Section and that are excepted under
20 paragraph (1) from the rate limitation imposed by law on
21 taxes levied for general corporate purposes by the local
22 public entity are not invalid because of any provision of
23 the law authorizing the local public entity's tax levy for
24 general corporate purposes that may be construed or may
25 have been construed to restrict or limit those taxes
26 levied, and those taxes are hereby validated. This

1 validation of taxes levied applies to all cases pending on
2 or after the effective date of this amendatory Act of 1994.

3 (3) Paragraphs (1) and (2) do not apply to a hospital
4 organized under Article 170 or 175 of the Township Code,
5 under the Town Hospital Act, or under the Township
6 Non-Sectarian Hospital Act and do not give any authority to
7 levy taxes on behalf of such a hospital in excess of the
8 rate limitation imposed by law on taxes levied for general
9 corporate purposes. A hospital organized under Article 170
10 or 175 of the Township Code, under the Town Hospital Act,
11 or under the Township Non-Sectarian Hospital Act is not
12 prohibited from levying taxes in support of tort liability
13 bonds if the taxes do not cause the hospital's aggregate
14 tax rate from exceeding the rate limitation imposed by law
15 on taxes levied for general corporate purposes.

16 Revenues derived from such tax shall be paid to the
17 treasurer of the local taxing entity as collected and used for
18 the purposes of this Section and of Section 9-102, 9-103, 9-104
19 or 9-105, as the case may be. If payments on account of such
20 taxes are insufficient during any year to meet such purposes,
21 the entity may issue tax anticipation warrants against the
22 current tax levy in the manner provided by statute.

23 (Source: P.A. 95-244, eff. 8-17-07; 95-723, eff. 6-23-08.)