



Sen. Chapin Rose

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09800HB2755sam001

LRB098 08712 OMW 46003 a

1 AMENDMENT TO HOUSE BILL 2755

2 AMENDMENT NO. _____. Amend House Bill 2755 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 adding Section 8-11-22 as follows:

6 (65 ILCS 5/8-11-22 new)

7 Sec. 8-11-22. School facility occupation taxes; City of
8 Shelbyville.

9 (a) The corporate authorities of the City of Shelbyville
10 may impose a tax upon all persons engaged in the business of
11 selling tangible personal property, other than personal
12 property titled or registered with an agency of this State's
13 government, at retail in the City of Shelbyville on the gross
14 receipts from the sales made in the course of business to
15 provide revenue to be used exclusively for school facility
16 purposes if a proposition for the tax has been submitted to the

1 electors of the City of Shelbyville and approved by a majority
2 of those voting on the question as provided in subsection (c).
3 The tax under this Section may be imposed in one-quarter
4 percent increments and may not exceed 1%.

5 A tax may not be imposed under this Section by the City of
6 Shelbyville if the voters of the county have approved a school
7 facility occupation tax pursuant to Section 5-1006.7 of the
8 Counties Code at a referendum submitted to the voters on or
9 before the March 2014 general primary election.

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

25 In the administration of and compliance with this
26 subsection, the Department and persons who are subject to this

1 Section: (i) have the same rights, remedies, privileges,
2 immunities, powers, and duties, (ii) are subject to the same
3 conditions, restrictions, limitations, penalties, and
4 definitions of terms, and (iii) shall employ the same modes of
5 procedure as are set forth in Sections 1 through 1o, 2 through
6 2-70 (in respect to all provisions contained in those Sections
7 other than the State rate of tax), 2a through 2h, 3 (except as
8 to the disposition of taxes and penalties collected), 4, 5, 5a,
9 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
10 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act
11 and all provisions of the Uniform Penalty and Interest Act as
12 if those provisions were set forth in this subsection.

13 The certificate of registration that is issued by the
14 Department to a retailer under the Retailers' Occupation Tax
15 Act permits the retailer to engage in a business that is
16 taxable without registering separately with the Department
17 under an ordinance or resolution under this subsection.

18 Persons subject to any tax imposed under the authority
19 granted in this Section may reimburse themselves for their
20 seller's tax liability by separately stating that tax as an
21 additional charge, which may be stated in combination, in a
22 single amount, with State tax that sellers are required to
23 collect under the Use Tax Act, pursuant to any bracketed
24 schedules set forth by the Department.

25 (b) If a tax has been imposed under subsection (a), then a
26 service occupation tax must also be imposed at the same rate

1 upon all persons engaged, in the City of Shelbyville, in the
2 business of making sales of service, who, as an incident to
3 making those sales of service, transfer tangible personal
4 property within the City of Shelbyville as an incident to a
5 sale of service.

6 This tax may not be imposed on sales of food for human
7 consumption that is to be consumed off the premises where it is
8 sold (other than alcoholic beverages, soft drinks, and food
9 prepared for immediate consumption) and prescription and
10 non-prescription medicines, drugs, medical appliances and
11 insulin, urine testing materials, syringes, and needles used by
12 diabetics.

13 The tax imposed under this Section and all civil penalties
14 that may be assessed as an incident thereof shall be collected
15 and enforced by the Department and deposited into a special
16 fund created for that purpose. The Department has full power to
17 administer and enforce this subsection, to collect all taxes
18 and penalties due under this subsection, to dispose of taxes
19 and penalties so collected in the manner provided in this
20 subsection, and to determine all rights to credit memoranda
21 arising on account of the erroneous payment of a tax or penalty
22 under this Section.

23 In the administration of and compliance with this
24 subsection, the Department and persons who are subject to this
25 subsection shall (i) have the same rights, remedies,
26 privileges, immunities, powers and duties, (ii) be subject to

1 the same conditions, restrictions, limitations, penalties and
2 definition of terms, and (iii) employ the same modes of
3 procedure as are set forth in Sections 2 (except that that
4 reference to State in the definition of supplier maintaining a
5 place of business in this State means the City of Shelbyville),
6 2a through 2d, 3 through 3-50 (in respect to all provisions
7 contained in those Sections other than the State rate of tax),
8 4 (except that the reference to the State shall be to the City
9 of Shelbyville), 5, 7, 8 (except that the jurisdiction to which
10 the tax is a debt to the extent indicated in that Section 8 is
11 the City of Shelbyville), 9 (except as to the disposition of
12 taxes and penalties collected), 10, 11, 12 (except the
13 reference therein to Section 2b of the Retailers' Occupation
14 Tax Act), 13 (except that any reference to the State means the
15 City of Shelbyville), Section 15, 16, 17, 18, 19, and 20 of the
16 Service Occupation Tax Act and all provisions of the Uniform
17 Penalty and Interest Act, as fully as if those provisions were
18 set forth herein.

19 Persons subject to any tax imposed under the authority
20 granted in this subsection may reimburse themselves for their
21 serviceman's tax liability by separately stating the tax as an
22 additional charge, which may be stated in combination, in a
23 single amount, with State tax that servicemen are authorized to
24 collect under the Service Use Tax Act, pursuant to any
25 bracketed schedules set forth by the Department.

26 (c) The tax under this Section may not be imposed until the

1 question of imposing the tax has been submitted to the electors
2 of the City of Shelbyville at a regular election and approved
3 by a majority of the electors voting on the question.

4 The corporate authorities of the City of Shelbyville may by
5 ordinance or resolution call for the submission to the electors
6 of the City of Shelbyville the question of whether the City of
7 Shelbyville shall impose a tax under this Section. Such
8 question shall be certified by the county clerk.

9 The county clerk must submit the question in substantially
10 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 the City of Shelbyville at a rate of 1% to be
14 used exclusively for school facility purposes?

15 Votes must be recorded as votes "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 (d) The Department shall immediately pay over to the State
20 Treasurer, ex officio, as trustee, all taxes and penalties
21 collected under this Section to be deposited into the School
22 Facility Occupation Tax Fund, which shall be an unappropriated
23 trust fund held outside the State treasury.

24 On or before the 25th day of each calendar month, the

1 Department shall prepare and certify to the Comptroller the
2 amount of the tax collected under this Section. The Comptroller
3 shall pay the amount certified to the City of Shelbyville (i)
4 less 2% of that amount, which shall be deposited into the Tax
5 Compliance and Administration Fund and shall be used by the
6 Department, subject to appropriation, to cover the costs of the
7 Department in administering and enforcing the provisions of
8 this Section, on behalf of the City of Shelbyville, and (ii)
9 less an amount equal to the amount of refunds made during the
10 second preceding calendar month by the Department on behalf of
11 the City of Shelbyville. When certifying the amount of a
12 monthly disbursement to the City of Shelbyville under this
13 Section, the Department shall increase or decrease the amounts
14 by an amount necessary to offset any miscalculation of previous
15 disbursements within the previous 6 months from the time a
16 miscalculation is discovered.

17 Within 10 days after receipt by the Comptroller from the
18 Department of the disbursement certification to the regional
19 superintendents of the schools provided for in this Section,
20 the Comptroller shall cause the orders to be drawn for the
21 respective amounts in accordance with directions contained in
22 the certification.

23 If the Department determines that a refund should be made
24 under this Section to a claimant instead of issuing a credit
25 memorandum, then the Department shall notify the Comptroller,
26 who shall cause the order to be drawn for the amount specified

1 and to the person named in the notification from the
2 Department. The refund shall be paid by the Treasurer out of
3 the School Facility Occupation Tax Fund.

4 (e) For the purposes of determining the local governmental
5 unit whose tax is applicable, a retail sale by a producer of
6 coal or another mineral mined in Illinois is a sale at retail
7 at the place where the coal or other mineral mined in Illinois
8 is extracted from the earth. This subsection does not apply to
9 coal or another mineral when it is delivered or shipped by the
10 seller to the purchaser at a point outside Illinois so that the
11 sale is exempt under the United States Constitution as a sale
12 in interstate or foreign commerce.

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

17 (g) If the corporate authorities of the City of Shelbyville
18 impose a tax under this Section pursuant to a referendum, then
19 the corporate authorities may reduce or discontinue the tax,
20 but only in accordance with subsections (h-5) and (i) of this
21 Section. If, however, the City of Shelbyville or any taxing
22 district within the City of Shelbyville issues bonds that are
23 secured by the proceeds of the tax under this Section, then the
24 corporate authorities may not reduce the tax rate or
25 discontinue the tax if that rate reduction or discontinuance
26 would adversely affect the City of Shelbyville's ability to pay

1 the principal and interest on those bonds as they become due or
2 necessitate the extension of additional property taxes to pay
3 the principal and interest on those bonds. If the corporate
4 authorities reduce the tax rate or discontinues the tax, then a
5 referendum must be held in accordance with subsection (c) of
6 this Section in order to increase the rate of the tax or to
7 reimpose the discontinued tax.

8 The results of any election that imposes, reduces, or
9 discontinues a tax under this Section must be certified by the
10 county clerk, and any ordinance that increases or lowers the
11 rate or discontinues the tax must be certified by the county
12 clerk and, in each case, filed with the Illinois Department of
13 Revenue either (i) on or before the first day of April,
14 whereupon the Department shall proceed to administer and
15 enforce the tax or change in the rate as of the first day of
16 July next following the filing; or (ii) on or before the first
17 day of October, whereupon the Department shall proceed to
18 administer and enforce the tax or change in the rate as of the
19 first day of January next following the filing.

20 (h) For purposes of this Section:

21 "Department" means the Department of Revenue.

22 "School facility purposes" means (i) the acquisition,
23 development, construction, reconstruction, rehabilitation,
24 improvement, financing, architectural planning, and
25 installation of capital facilities consisting of
26 buildings, structures, and durable equipment and for the

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

15 (h-5) Where a tax has been imposed by the corporate
16 authorities of the City of Shelbyville under this Section
17 pursuant to a referendum, they may, by ordinance or resolution,
18 submit to the voters of the City of Shelbyville the question of
19 reducing or discontinuing the tax. In the ordinance or
20 resolution, the corporate authorities shall certify the
21 question to the county clerk. The county clerk must submit the
22 question in 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 the City

1 of Shelbyville at a rate of (insert rate) be (reduced to
2 (insert rate))(discontinued)?

3 Votes must be recorded as votes "Yes" or "No".

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

8 (i) In the event that the City of Shelbyville imposes a tax
9 under this Section and the county imposes a school facility
10 occupation tax under Section 5-1006.7 of the Counties Code,
11 then the City of Shelbyville may not continue to impose the tax
12 under this Section, nor may the City of Shelbyville impose a
13 new tax under this Section, beginning on the effective date of
14 the county's ordinance or resolution imposing the tax, except
15 as provided in subsection (i-5).

16 (i-5) If the City of Shelbyville or any taxing district
17 located within the City of Shelbyville issues bonds that are
18 secured by the proceeds of the tax under this Section, then the
19 tax shall not discontinue pursuant to subsection (i) if that
20 discontinuance would adversely affect the City of
21 Shelbyville's ability to pay the principal and interest on
22 those bonds as they become due or necessitate the extension of
23 additional property taxes to pay the principal and interest on
24 those bonds; however, the tax shall be discontinued at such
25 time as the bonds are paid in full. Furthermore, if the county

1 imposes a school facility occupation tax under Section 5-1006.7
2 of the Counties Code, then the City of Shelbyville may not
3 issue any new or additional bonds secured by the proceeds of a
4 tax imposed under this Section, except for bonds issued to
5 refund bonds issued before the effective date of the tax
6 imposed by the county.

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

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