



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1405

Introduced 2/6/2013, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

35 ILCS 720/1

from Ch. 120, par. 1901

Amends the Local Tax Collection Act. Provides that the amount to be paid to each municipality or county under the Act shall not include credit memoranda and shall not include the following amounts: (i) an amount equal to the amount of refunds made during the second preceding calendar month by the Department of behalf of such county or municipality; (ii) an amount the Department determines is necessary to offset any amounts which were erroneously paid to a different taxing body; and (iii) any amount which the Department determines is necessary to offset any amounts which are payable to a different taxing body but were erroneously paid to the municipality or county. Provides that the Comptroller shall issue orders for payment within 10 (instead of 7) days after receiving the Department's certification. Provides that 2% of the amounts paid to each municipality or county (or a greater amount as specified in an agreement between the Department and the municipality or county) shall be deposited into the Tax Compliance and Administration Fund to cover the costs incurred by the Department in administering and enforcing the Act (now, 2% is deposited into the General Revenue Fund). Effective immediately.

LRB098 04069 HLH 34092 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Local Tax Collection Act is amended by
5 changing Section 1 as follows:

6 (35 ILCS 720/1) (from Ch. 120, par. 1901)

7 Sec. 1. (a) The Department of Revenue and any county or
8 municipality may agree to the Department's collecting, and
9 transmitting back to such county or municipality, any tax
10 lawfully imposed by that county or municipality, the subject of
11 which is similar to that of a tax imposed by the State and
12 collected by the Department of Revenue, unless the General
13 Assembly has specifically required a different method of
14 collection for such tax. However, the Department may not enter
15 into a contract with any municipality or county pursuant to
16 this Act for the collection of any tax based on the sale or use
17 of tangible personal property generally, not including taxes
18 based only on the sale or use of specifically limited kinds of
19 tangible personal property, unless the municipal or county
20 ordinance imposes a sales or use tax which is substantively
21 identical to and which contains the same exemptions as the
22 taxes imposed by the municipalities' or counties' ordinances
23 authorized by the Municipal or County Retailers' Occupation Tax

1 Act or the Municipal or County Use Tax as interpreted by the
2 Department through its regulations as those Acts and as those
3 regulations may from time to time be amended.

4 (b) Regarding the collection of a tax pursuant to this
5 Section, the Department and any person subject to a tax
6 collected by the Department pursuant to this Section shall, as
7 much as practicable, have the same rights, remedies,
8 privileges, immunities, powers and duties, and be subject to
9 the same conditions, restrictions, limitations, penalties,
10 definitions of terms and procedures, as those set forth in the
11 Act imposing the State tax, the subject of which is similar to
12 the tax being collected by the Department pursuant to this
13 Section. The Department and county or municipality shall
14 specifically agree in writing to such rights, remedies,
15 privileges, immunities, powers, duties, conditions,
16 restrictions, limitations, penalties, definitions of terms and
17 procedures, as well as any other terms deemed necessary or
18 advisable. All terms so agreed upon shall be incorporated into
19 an ordinance of such county or municipality, and the Department
20 shall not collect the tax pursuant to this Section until such
21 ordinance takes effect.

22 (c) (1) The Department shall forthwith pay over to the
23 State Treasurer, ex officio, as trustee, all taxes and
24 penalties collected hereunder. On or before the 25th day of
25 each calendar month, the Department shall prepare and certify
26 to the Comptroller the disbursement of stated sums of money to

1 named cities and counties from which retailers or other
2 taxpayers have paid taxes or penalties hereunder to the
3 Department during the second preceding calendar month.

4 (i) The ~~an~~ amount to be paid to each county and
5 municipality, ~~which~~ shall equal the taxes and penalties
6 collected by the Department for such county or municipality
7 pursuant to this Section during the second preceding calendar
8 month, not including credit memoranda, and not including the
9 following amounts: (i) an amount equal to the amount of refunds
10 made during the second preceding calendar month by the
11 Department of behalf of such county or municipality; (ii) an
12 amount the Department determines is necessary to offset any
13 amounts which were erroneously paid to a different taxing body;
14 and (iii) any amount which the Department determines is
15 necessary to offset any amounts which are payable to a
16 different taxing body but were erroneously paid to the
17 municipality or county, less 2% of the balance, or any greater
18 amount of the balance as determined in the agreement between
19 the Department and the county or municipality required under
20 this Section, which sum shall be retained by the State
21 Treasurer to cover the costs incurred by the Department in
22 administering and enforcing the provisions of this Section, as
23 provided herein ~~total amount of taxes and penalties collected~~
24 ~~by the Department for such county or municipality pursuant to~~
25 ~~this Section or the actual cost of collection of such taxes and~~
26 ~~penalties determined pursuant to the agreement described in~~

1 ~~subsection (b), whichever is less, which shall be retained by~~
2 ~~the State; and~~

3 (ii) With respect to the total amount to be retained by the
4 State Treasurer pursuant to subparagraph (i), the Department,
5 at the time of each monthly disbursement to the counties and
6 municipalities, shall prepare and certify to the Comptroller
7 the amount so retained by the State Treasurer, which shall be
8 deposited ~~such amount to be deposited~~ into the Tax Compliance
9 and Administration Fund ~~General Revenue Fund of the State~~
10 ~~treasury~~ and used by the Department, subject to appropriation,
11 to cover the costs incurred by the Department in collecting
12 such taxes and penalties.

13 (2) Within 10 ~~7~~ days after receiving the certifications
14 described in paragraph (1), the Comptroller shall issue orders
15 for payment of the amounts specified in subparagraph (i) of
16 paragraph (1).

17 (d) Any home rule unit of local government which imposes a
18 tax substantially similar to a State imposed tax, or which
19 imposes a tax which is intended to be collected from a retail
20 purchaser of goods or services at the same time a similar State
21 tax is also collected, must file a copy of the ordinance
22 imposing the tax with the Department within 10 days after its
23 passage. No such ordinance shall become effective until it is
24 so filed. Any home rule unit of local government which has
25 enacted such an ordinance prior to the effective date of this
26 Act shall file a copy of such ordinance with the Department

1 within 90 days after the effective date of this Act.

2 (e) It is declared to be the law of this State, pursuant to
3 paragraph (g) of Section 6 of Article VII of the Illinois
4 Constitution, that this amendatory Act of 1988 is a denial of
5 the power of a home rule unit to fail to comply with the
6 requirements of paragraphs (d) and (e) of this Section.

7 (Source: P.A. 85-1215.)

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