

HB3100



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3100

by Rep. Michael Unes

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1006.7

Amends the Counties Code. Makes a technical change in a Section concerning school facility occupation taxes.

LRB099 11107 AWJ 31524 b

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Counties Code is amended by changing Section
5 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 ~~the~~ business of selling tangible personal
10 property, other than personal property titled or registered
11 with an agency of this State's government, at retail in the
12 county on the gross receipts from the sales made in the course
13 of business to provide revenue to be used exclusively for
14 school 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
17 subsection (c). The tax under this Section shall be imposed
18 only in one-quarter percent increments and may not exceed 1%.

19 This additional tax may not be imposed on the sale of food
20 for human consumption that is to be consumed off the premises
21 where it is sold (other than alcoholic beverages, soft drinks,
22 and food that has been prepared for immediate consumption) and
23 prescription and non-prescription medicines, drugs, medical

1 appliances and insulin, urine testing materials, syringes and
2 needles used by diabetics. The Department of Revenue has full
3 power to administer and enforce this subsection, to collect all
4 taxes and penalties due under this subsection, to dispose of
5 taxes and penalties so collected in the manner provided in this
6 subsection, and to determine all rights to credit memoranda
7 arising on account of the erroneous payment of a tax or penalty
8 under this subsection. The Department shall deposit all taxes
9 and penalties collected under this subsection into a special
10 fund created for that purpose.

11 In the administration of and compliance with this
12 subsection, the Department and persons who are subject to this
13 subsection (i) have the same rights, remedies, privileges,
14 immunities, powers, and duties, (ii) are subject to the same
15 conditions, restrictions, limitations, penalties, and
16 definitions of terms, and (iii) shall employ the same modes of
17 procedure as are set forth in Sections 1 through 10, 2 through
18 2-70 (in respect to all provisions contained in those Sections
19 other than the State rate of tax), 2a through 2h, 3 (except as
20 to the disposition of taxes and penalties collected), 4, 5, 5a,
21 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
22 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act
23 and all provisions of the Uniform Penalty and Interest Act as
24 if those provisions were set forth in this subsection.

25 The certificate of registration that is issued by the
26 Department to a retailer under the Retailers' Occupation Tax

1 Act permits the retailer to engage in a business that is
2 taxable without registering separately with the Department
3 under an ordinance or resolution under this subsection.

4 Persons subject to any tax imposed under the authority
5 granted in this subsection may reimburse themselves for their
6 seller's tax liability by separately stating that tax as an
7 additional charge, which may be stated in combination, in a
8 single amount, with State tax that sellers are required to
9 collect under the Use Tax Act, pursuant to any bracketed
10 schedules set forth by the Department.

11 (b) If a tax has been imposed under subsection (a), then a
12 service occupation tax must also be imposed at the same rate
13 upon all persons engaged, in the county, in the business of
14 making sales of service, who, as an incident to making those
15 sales of service, transfer tangible personal property within
16 the county as an incident to a sale of service.

17 This tax may not be imposed on sales of food for human
18 consumption that is to be consumed off the premises where it is
19 sold (other than alcoholic beverages, soft drinks, and food
20 prepared for immediate consumption) and prescription and
21 non-prescription medicines, drugs, medical appliances and
22 insulin, urine testing materials, syringes, and needles used by
23 diabetics.

24 The tax imposed under this subsection and all civil
25 penalties that may be assessed as an incident thereof shall be
26 collected and enforced by the Department and deposited into a

1 special fund created for that purpose. The Department has full
2 power to administer and enforce this subsection, to collect all
3 taxes and penalties due under this subsection, to dispose of
4 taxes and penalties so collected in the manner provided in this
5 subsection, and to determine all rights to credit memoranda
6 arising on account of the erroneous payment of a tax or penalty
7 under this subsection.

8 In the administration of and compliance with this
9 subsection, the Department and persons who are subject to this
10 subsection shall (i) have the same rights, remedies,
11 privileges, immunities, powers and duties, (ii) be subject to
12 the same conditions, restrictions, limitations, penalties and
13 definition of terms, and (iii) employ the same modes of
14 procedure as are set forth in Sections 2 (except that that
15 reference to State in the definition of supplier maintaining a
16 place of business in this State means the county), 2a through
17 2d, 3 through 3-50 (in respect to all provisions contained in
18 those Sections other than the State rate of tax), 4 (except
19 that the reference to the State shall be to the county), 5, 7,
20 8 (except that the jurisdiction to which the tax is a debt to
21 the extent indicated in that Section 8 is the county), 9
22 (except as to the disposition of taxes and penalties
23 collected), 10, 11, 12 (except the reference therein to Section
24 2b of the Retailers' Occupation Tax Act), 13 (except that any
25 reference to the State means the county), Section 15, 16, 17,
26 18, 19, and 20 of the Service Occupation Tax Act and all

1 provisions of the Uniform Penalty and Interest Act, as fully as
2 if those provisions were set forth herein.

3 Persons subject to any tax imposed under the authority
4 granted in this subsection may reimburse themselves for their
5 serviceman's tax liability by separately stating the tax as an
6 additional charge, which may be stated in combination, in a
7 single amount, with State tax that servicemen are authorized to
8 collect under the Service Use Tax Act, pursuant to any
9 bracketed schedules set forth by the Department.

10 (c) The tax under this Section may not be imposed until the
11 question of imposing the tax has been submitted to the electors
12 of the county at a regular election and approved by a majority
13 of the electors voting on the question. For all regular
14 elections held prior to the effective date of this amendatory
15 Act of the 97th General Assembly, upon a resolution by the
16 county board or a resolution by school district boards that
17 represent at least 51% of the student enrollment within the
18 county, the county board must certify the question to the
19 proper election authority in accordance with the Election Code.

20 For all regular elections held prior to the effective date
21 of this amendatory Act of the 97th General Assembly, the
22 election authority must submit the question in substantially
23 the following form:

24 Shall (name of county) be authorized to impose a
25 retailers' occupation tax and a service occupation tax
26 (commonly referred to as a "sales tax") at a rate of

1 (insert rate) to be used exclusively for school facility
2 purposes?

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

4 If a majority of the electors voting on the question vote
5 in the affirmative, then the county may, thereafter, impose the
6 tax.

7 For all regular elections held on or after the effective
8 date of this amendatory Act of the 97th General Assembly, the
9 regional superintendent of schools for the county must, upon
10 receipt of a resolution or resolutions of school district
11 boards that represent more than 50% of the student enrollment
12 within the county, certify the question to the proper election
13 authority for submission to the electors of the county at the
14 next regular election at which the question lawfully may be
15 submitted to the electors, all in accordance with the Election
16 Code.

17 For all regular elections held on or after the effective
18 date of this amendatory Act of the 97th General Assembly, the
19 election authority must submit the question in substantially
20 the following form:

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

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

26 If a majority of the electors voting on the question vote

1 in the affirmative, then the tax shall be imposed at the rate
2 set forth in the question.

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

8 (d) The Department shall immediately pay over to the State
9 Treasurer, ex officio, as trustee, all taxes and penalties
10 collected under this Section to be deposited into the School
11 Facility Occupation Tax Fund, which shall be an unappropriated
12 trust fund held outside the State treasury.

13 On or before the 25th day of each calendar month, the
14 Department shall prepare and certify to the Comptroller the
15 disbursement of stated sums of money to the regional
16 superintendents of schools in counties from which retailers or
17 servicemen have paid taxes or penalties to the Department
18 during the second preceding calendar month. The amount to be
19 paid to each regional superintendent of schools and disbursed
20 to him or her in accordance with Section 3-14.31 of the School
21 Code, is equal to the amount (not including credit memoranda)
22 collected from the county under this Section during the second
23 preceding calendar month by the Department, (i) less 2% of that
24 amount, which shall be deposited into the Tax Compliance and
25 Administration Fund and shall be used by the Department,
26 subject to appropriation, to cover the costs of the Department

1 in administering and enforcing the provisions of this Section,
2 on behalf of the county, (ii) plus an amount that the
3 Department determines is necessary to offset any amounts that
4 were erroneously paid to a different taxing body; (iii) less an
5 amount equal to the amount of refunds made during the second
6 preceding calendar month by the Department on behalf of the
7 county; and (iv) less any amount that the Department determines
8 is necessary to offset any amounts that were payable to a
9 different taxing body but were erroneously paid to the county.
10 When certifying the amount of a monthly disbursement to a
11 regional superintendent of schools under this Section, the
12 Department shall increase or decrease the amounts by an amount
13 necessary to offset any miscalculation of previous
14 disbursements within the previous 6 months from the time a
15 miscalculation is discovered.

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

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

1 Department. The refund shall be paid by the Treasurer out of
2 the School Facility Occupation Tax Fund.

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

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

16 (g) If a county board imposes a tax under this Section
17 pursuant to a referendum held before the effective date of this
18 amendatory Act of the 97th General Assembly at a rate below the
19 rate set forth in the question approved by a majority of
20 electors of that county voting on the question as provided in
21 subsection (c), then the county board may, by ordinance,
22 increase the rate of the tax up to the rate set forth in the
23 question approved by a majority of electors of that county
24 voting on the question as provided in subsection (c). If a
25 county board imposes a tax under this Section pursuant to a
26 referendum held before the effective date of this amendatory

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

19 Until January 1, 2014, the results of any election that
20 imposes, reduces, or discontinues a tax under this Section must
21 be certified by the election authority, and any ordinance that
22 increases or lowers the rate or discontinues the tax must be
23 certified by the county clerk and, in each case, filed with the
24 Illinois Department of Revenue either (i) on or before the
25 first day of April, whereupon the Department shall proceed to
26 administer and enforce the tax or change in the rate as of the

1 first day of July next following the filing; or (ii) on or
2 before the first day of October, whereupon the Department shall
3 proceed to administer and enforce the tax or change in the rate
4 as of the first day of January next following the filing.

5 Beginning January 1, 2014, the results of any election that
6 imposes, reduces, or discontinues a tax under this Section must
7 be certified by the election authority, and any ordinance that
8 increases or lowers the rate or discontinues the tax must be
9 certified by the county clerk and, in each case, filed with the
10 Illinois Department of Revenue either (i) on or before the
11 first day of May, whereupon the Department shall proceed to
12 administer and enforce the tax or change in the rate as of the
13 first day of July next following the filing; or (ii) on or
14 before the first day of October, whereupon the Department shall
15 proceed to administer and enforce the tax or change in the rate
16 as of the first day of January next following the filing.

17 (h) For purposes of this Section, "school facility
18 purposes" means (i) the acquisition, development,
19 construction, reconstruction, rehabilitation, improvement,
20 financing, architectural planning, and installation of capital
21 facilities consisting of buildings, structures, and durable
22 equipment and for the acquisition and improvement of real
23 property and interest in real property required, or expected to
24 be required, in connection with the capital facilities and (ii)
25 the payment of bonds or other obligations heretofore or
26 hereafter issued, including bonds or other obligations

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

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

18 Shall the school facility retailers' occupation tax
19 and service occupation tax (commonly referred to as the
20 "school facility sales tax") currently imposed in (name of
21 county) at a rate of (insert rate) be (reduced to (insert
22 rate)) (discontinued)?

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

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

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

4 (Source: P.A. 97-542, eff. 8-23-11; 97-813, eff. 7-13-12;
5 98-584, eff. 8-27-13.)