

AN ACT concerning environmental liability.

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

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

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

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

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

(Source: P.A. 86-668.)

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

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

Sec. 9-107. Policy; tax levy.

(a) The General Assembly finds that the purpose of this Section is to provide an extraordinary tax for funding expenses relating to (i) tort liability, (ii) liability relating to actions brought under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Environmental Protection Act, but only until December 31, 2010, (iii) insurance, and (iv) risk management programs. Thus, the tax has been excluded from various limitations otherwise applicable to tax levies. Notwithstanding the extraordinary nature of the tax authorized by this Section, however, it has

become apparent that some units of local government are using the tax revenue to fund expenses more properly paid from general operating funds. These uses of the revenue are inconsistent with the limited purpose of the tax authorization.

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

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

attributable to being a member of an insurance pool, under Section 9-103; (ii) pay the costs of and principal and interest on bonds issued under Section 9-105; (iii) pay judgments and settlements under Section 9-104 of this Act; ~~and~~ (iv) discharge obligations under Section 34-18.1 of the ~~The~~ School Code; (v) pay judgments and settlements under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Environmental Protection Act, but only until December 31, 2010; ~~as now or hereafter amended,~~ and (vi) ~~to~~ pay the cost of risk management programs. Provided it complies with any other applicable statutory requirements, the local public entity may self-insure and establish reserves for expected losses for any property damage or for any liability or loss for which the local public entity is authorized to levy or have levied on its behalf taxes for the purchase of insurance or the payment of judgments or settlements under this Section. The decision of the board to establish a reserve shall be based on reasonable actuarial or insurance underwriting evidence and subject to the limits and reporting provisions in Section 9-103.

If a school district was a member of a joint-self-health-insurance cooperative that had more liability in outstanding claims than revenue to pay those claims, the school board of that district may by resolution make a one-time transfer from any fund in which tort immunity moneys are maintained to the fund or funds from which payments

to a joint-self-health-insurance cooperative can be or have been made of an amount not to exceed the amount of the liability claim that the school district owes to the joint-self-health-insurance cooperative or that the school district paid within the 2 years immediately preceding the effective date of this amendatory Act of the 92nd General Assembly.

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

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

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

Any tax levied under this Section shall be levied and collected in like manner with the general taxes of the entity and shall be exclusive of and in addition to the amount of tax that entity is now or may hereafter be authorized to levy for general purposes under any statute which may limit the amount

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

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

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

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

or after the effective date of this amendatory Act of 1994.

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

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

(Source: P.A. 91-628, eff. 1-1-00; 92-732, eff. 7-25-02.)

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