



## 95TH GENERAL ASSEMBLY

### State of Illinois

#### 2007 and 2008

#### HB1562

Introduced 2/22/2007, by Rep. Eddie Washington

#### 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. Provides that the tort immunity tax that school boards and local public entities are authorized to levy may also be 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.

LRB095 08713 NHT 28896 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 to pay the cost of settlements or  
12 judgments under Section 9-102 of the Local Governmental and  
13 Governmental Employees Tort Immunity Act, the federal  
14 Comprehensive Environmental Response, Compensation, and  
15 Liability Act of 1980, and the Environmental Protection Act,  
16 ~~as now or hereafter amended,~~ to pay the costs of protecting  
17 itself or its employees against liability, property damage or  
18 loss, including all costs and reserves of being a member of an  
19 insurance pool, under Section 9-103 of the Local Governmental  
20 and Governmental Employees Tort Immunity ~~that~~ Act, to pay the  
21 costs of and principal and interest on bonds issued under  
22 Section 9-105 of the Local Governmental and Governmental  
23 Employees Tort Immunity ~~that~~ Act, to pay tort judgments or

1 settlements under Section 9-104 of the Local Governmental and  
2 Governmental Employees Tort Immunity ~~that~~ Act to the extent  
3 necessary to discharge such obligations and to pay the cost of  
4 risk care management programs in accordance with Section 9-107  
5 of the Local Governmental and Governmental Employees Tort  
6 Immunity ~~that~~ Act.

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

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

11 (745 ILCS 10/9-107) (from Ch. 85, par. 9-107)

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

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

1 uses of the revenue are inconsistent with the limited purpose  
2 of the tax authorization.

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

9 (b) A local public entity may annually levy or have levied  
10 on its behalf taxes upon all taxable property within its  
11 territory at a rate that will produce a sum that will be  
12 sufficient to: (i) pay the cost of insurance, individual or  
13 joint self-insurance (including reserves thereon), including  
14 all operating and administrative costs and expenses directly  
15 associated therewith, claims services and risk management  
16 directly attributable to loss prevention and loss reduction,  
17 legal services directly attributable to the insurance,  
18 self-insurance, or joint self-insurance program, and  
19 educational, inspectional, and supervisory services directly  
20 relating to loss prevention and loss reduction, participation  
21 in a reciprocal insurer as provided in Sections 72, 76, and 81  
22 of the Illinois Insurance Code, or participation in a  
23 reciprocal insurer, all as provided in settlements or judgments  
24 under Section 9-102, including all costs and reserves directly  
25 attributable to being a member of an insurance pool, under  
26 Section 9-103; (ii) pay the costs of and principal and interest

1 on bonds issued under Section 9-105; (iii) pay judgments and  
2 settlements under Section 9-104 of this Act, the federal  
3 Comprehensive Environmental Response, Compensation, and  
4 Liability Act of 1980, and the Environmental Protection Act;  
5 and (iv) discharge obligations under Section 34-18.1 of The  
6 School Code, as now or hereafter amended, and to pay the cost  
7 of risk management programs. Provided it complies with any  
8 other applicable statutory requirements, the local public  
9 entity may self-insure and establish reserves for expected  
10 losses for any property damage or for any liability or loss for  
11 which the local public entity is authorized to levy or have  
12 levied on its behalf taxes for the purchase of insurance or the  
13 payment of judgments or settlements under this Section. The  
14 decision of the board to establish a reserve shall be based on  
15 reasonable actuarial or insurance underwriting evidence and  
16 subject to the limits and reporting provisions in Section  
17 9-103.

18 If a school district was a member of a  
19 joint-self-health-insurance cooperative that had more  
20 liability in outstanding claims than revenue to pay those  
21 claims, the school board of that district may by resolution  
22 make a one-time transfer from any fund in which tort immunity  
23 moneys are maintained to the fund or funds from which payments  
24 to a joint-self-health-insurance cooperative can be or have  
25 been made of an amount not to exceed the amount of the  
26 liability claim that the school district owes to the

1 joint-self-health-insurance cooperative or that the school  
2 district paid within the 2 years immediately preceding the  
3 effective date of this amendatory Act of the 92nd General  
4 Assembly.

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

17 A local public entity may enter into intergovernmental  
18 contracts with a term of not to exceed 12 years for the  
19 provision of joint self-insurance which contracts may include  
20 an obligation to pay a proportional share of a general  
21 obligation or revenue bond or other debt instrument issued by a  
22 local public entity which is a party to the intergovernmental  
23 contract and is authorized by the terms of the contract to  
24 issue the bond or other debt instrument. Funds due under such  
25 contracts shall not be considered debt under any constitutional  
26 or statutory limitation and the local public entity may levy or

1 have levied on its behalf taxes to pay for its proportional  
2 share under the contract. Funds raised pursuant to  
3 intergovernmental contracts for the provision of joint  
4 self-insurance may only be used for the payment of any cost,  
5 liability or loss against which a local public entity may  
6 protect itself or self-insure pursuant to Section 9-103 or for  
7 the payment of which such entity may levy a tax pursuant to  
8 this Section, including tort judgments or settlements, costs  
9 associated with the issuance, retirement or refinancing of the  
10 bonds or other debt instruments, the repayment of the principal  
11 or interest of the bonds or other debt instruments, the costs  
12 of the administration of the joint self-insurance fund,  
13 consultant, and risk care management programs or the costs of  
14 insurance. Any surplus returned to the local public entity  
15 under the terms of the intergovernmental contract shall be used  
16 only for purposes set forth in subsection (a) of Section 9-103  
17 and Section 9-107 or for abatement of property taxes levied by  
18 the local taxing entity.

19 Any tax levied under this Section shall be levied and  
20 collected in like manner with the general taxes of the entity  
21 and shall be exclusive of and in addition to the amount of tax  
22 that entity is now or may hereafter be authorized to levy for  
23 general purposes under any statute which may limit the amount  
24 of tax which that entity may levy for general purposes. The  
25 county clerk of the county in which any part of the territory  
26 of the local taxing entity is located, in reducing tax levies

1 under the provisions of any Act concerning the levy and  
2 extension of taxes, shall not consider any tax provided for by  
3 this Section as a part of the general tax levy for the purposes  
4 of the entity nor include such tax within any limitation of the  
5 percent of the assessed valuation upon which taxes are required  
6 to be extended for such entity.

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

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

14 (2) Those taxes that a local public entity has levied  
15 in reliance on this Section and that are excepted under  
16 paragraph (1) from the rate limitation imposed by law on  
17 taxes levied for general corporate purposes by the local  
18 public entity are not invalid because of any provision of  
19 the law authorizing the local public entity's tax levy for  
20 general corporate purposes that may be construed or may  
21 have been construed to restrict or limit those taxes  
22 levied, and those taxes are hereby validated. This  
23 validation of taxes levied applies to all cases pending on  
24 or after the effective date of this amendatory Act of 1994.

25 (3) Paragraphs (1) and (2) do not apply to a hospital  
26 organized under Article 170 or 175 of the Township Code,



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

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

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