

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 (i) to pay the cost of settlements or
12 judgments under Section 9-102 of the Local Governmental and
13 Governmental Employees Tort Immunity Act, (ii) to pay the cost
14 of settlements or judgments under the federal Comprehensive
15 Environmental Response, Compensation, and Liability Act of
16 1980 and the Environmental Protection Act, but only until
17 December 31, 2010, (iii) ~~as now or hereafter amended,~~ to pay
18 the costs of protecting itself or its employees against
19 liability, property damage or loss, including all costs and
20 reserves of being a member of an insurance pool, under Section
21 9-103 of the Local Governmental and Governmental Employees Tort
22 Immunity ~~that~~ Act, (iv) to pay the costs of and principal and
23 interest on bonds issued under Section 9-105 of the Local

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

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

10 Section 10. The Local Governmental and Governmental
11 Employees Tort Immunity Act is amended by changing Section
12 9-107 as follows:

13 (745 ILCS 10/9-107) (from Ch. 85, par. 9-107)

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

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

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

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

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

1 attributable to being a member of an insurance pool, under
2 Section 9-103; (ii) pay the costs of and principal and interest
3 on bonds issued under Section 9-105; (iii) pay judgments and
4 settlements under Section 9-104 of this Act; ~~and~~ (iv) discharge
5 obligations under Section 34-18.1 of the ~~The~~ School Code; (v)
6 pay judgments and settlements under the federal Comprehensive
7 Environmental Response, Compensation, and Liability Act of
8 1980 and the Environmental Protection Act, but only until
9 December 31, 2010; ~~as now or hereafter amended,~~ and (vi) ~~to~~
10 pay the cost of risk management programs. Provided it complies
11 with any other applicable statutory requirements, the local
12 public entity may self-insure and establish reserves for
13 expected losses for any property damage or for any liability or
14 loss for which the local public entity is authorized to levy or
15 have levied on its behalf taxes for the purchase of insurance
16 or the payment of judgments or settlements under this Section.
17 The decision of the board to establish a reserve shall be based
18 on reasonable actuarial or insurance underwriting evidence and
19 subject to the limits and reporting provisions in Section
20 9-103.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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