



Rep. Lawrence Walsh, Jr.

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10100HB0938ham001

LRB101 03318 AWJ 57411 a

1 AMENDMENT TO HOUSE BILL 938

2 AMENDMENT NO. _____. Amend House Bill 938 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 changing Section 8-11-1.3 as follows:

6 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

7 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
8 Occupation Tax Act. The corporate authorities of a non-home
9 rule municipality may impose a tax upon all persons engaged in
10 the business of selling tangible personal property, other than
11 on an item of tangible personal property which is titled and
12 registered by an agency of this State's Government, at retail
13 in the municipality for expenditure on public infrastructure or
14 for property tax relief or both as defined in Section 8-11-1.2
15 if approved by referendum as provided in Section 8-11-1.1, of
16 the gross receipts from such sales made in the course of such

1 business. If the tax is approved by referendum on or after July
2 14, 2010 (the effective date of Public Act 96-1057), the
3 corporate authorities of a non-home rule municipality may,
4 until July 1, 2030 ~~December 31, 2020~~, use the proceeds of the
5 tax for expenditure on municipal operations, in addition to or
6 in lieu of any expenditure on public infrastructure or for
7 property tax relief. The tax imposed may not be more than 1%
8 and may be imposed only in 1/4% increments. The tax may not be
9 imposed on tangible personal property taxed at the 1% rate
10 under the Retailers' Occupation Tax Act. The tax imposed by a
11 municipality pursuant to this Section and all civil penalties
12 that may be assessed as an incident thereof shall be collected
13 and enforced by the State Department of Revenue. The
14 certificate of registration which is issued by the Department
15 to a retailer under the Retailers' Occupation Tax Act shall
16 permit such retailer to engage in a business which is taxable
17 under any ordinance or resolution enacted pursuant to this
18 Section without registering separately with the Department
19 under such ordinance or resolution or under this Section. The
20 Department shall have full power to administer and enforce this
21 Section; to collect all taxes and penalties due hereunder; to
22 dispose of taxes and penalties so collected in the manner
23 hereinafter provided, and to determine all rights to credit
24 memoranda, arising on account of the erroneous payment of tax
25 or penalty hereunder. In the administration of, and compliance
26 with, this Section, the Department and persons who are subject

1 to this Section shall have the same rights, remedies,
2 privileges, immunities, powers and duties, and be subject to
3 the same conditions, restrictions, limitations, penalties and
4 definitions of terms, and employ the same modes of procedure,
5 as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,
6 2 through 2-65 (in respect to all provisions therein other than
7 the State rate of tax), 2c, 3 (except as to the disposition of
8 taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f,
9 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 12
10 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of
11 the Uniform Penalty and Interest Act as fully as if those
12 provisions were set forth herein.

13 No municipality may impose a tax under this Section unless
14 the municipality also imposes a tax at the same rate under
15 Section 8-11-1.4 of this Code.

16 Persons subject to any tax imposed pursuant to the
17 authority granted in this Section may reimburse themselves for
18 their seller's tax liability hereunder by separately stating
19 such tax as an additional charge, which charge may be stated in
20 combination, in a single amount, with State tax which sellers
21 are required to collect under the Use Tax Act, pursuant to such
22 bracket schedules as the Department may prescribe.

23 Whenever the Department determines that a refund should be
24 made under this Section to a claimant instead of issuing a
25 credit memorandum, the Department shall notify the State
26 Comptroller, who shall cause the order to be drawn for the

1 amount specified, and to the person named, in such notification
2 from the Department. Such refund shall be paid by the State
3 Treasurer out of the non-home rule municipal retailers'
4 occupation tax fund.

5 The Department shall forthwith pay over to the State
6 Treasurer, ex officio, as trustee, all taxes and penalties
7 collected hereunder.

8 As soon as possible after the first day of each month,
9 beginning January 1, 2011, upon certification of the Department
10 of Revenue, the Comptroller shall order transferred, and the
11 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
12 local sales tax increment, as defined in the Innovation
13 Development and Economy Act, collected under this Section
14 during the second preceding calendar month for sales within a
15 STAR bond district.

16 After the monthly transfer to the STAR Bonds Revenue Fund,
17 on or before the 25th day of each calendar month, the
18 Department shall prepare and certify to the Comptroller the
19 disbursement of stated sums of money to named municipalities,
20 the municipalities to be those from which retailers have paid
21 taxes or penalties hereunder to the Department during the
22 second preceding calendar month. The amount to be paid to each
23 municipality shall be the amount (not including credit
24 memoranda) collected hereunder during the second preceding
25 calendar month by the Department plus an amount the Department
26 determines is necessary to offset any amounts which were

1 erroneously paid to a different taxing body, and not including
2 an amount equal to the amount of refunds made during the second
3 preceding calendar month by the Department on behalf of such
4 municipality, and not including any amount which the Department
5 determines is necessary to offset any amounts which were
6 payable to a different taxing body but were erroneously paid to
7 the municipality, and not including any amounts that are
8 transferred to the STAR Bonds Revenue Fund, less 1.5% of the
9 remainder, which the Department shall transfer into the Tax
10 Compliance and Administration Fund. The Department, at the time
11 of each monthly disbursement to the municipalities, shall
12 prepare and certify to the State Comptroller the amount to be
13 transferred into the Tax Compliance and Administration Fund
14 under this Section. Within 10 days after receipt, by the
15 Comptroller, of the disbursement certification to the
16 municipalities and the Tax Compliance and Administration Fund
17 provided for in this Section to be given to the Comptroller by
18 the Department, the Comptroller shall cause the orders to be
19 drawn for the respective amounts in accordance with the
20 directions contained in such certification.

21 For the purpose of determining the local governmental unit
22 whose tax is applicable, a retail sale, by a producer of coal
23 or other mineral mined in Illinois, is a sale at retail at the
24 place where the coal or other mineral mined in Illinois is
25 extracted from the earth. This paragraph does not apply to coal
26 or other mineral when it is delivered or shipped by the seller

1 to the purchaser at a point outside Illinois so that the sale
2 is exempt under the Federal Constitution as a sale in
3 interstate or foreign commerce.

4 Nothing in this Section shall be construed to authorize a
5 municipality to impose a tax upon the privilege of engaging in
6 any business which under the constitution of the United States
7 may not be made the subject of taxation by this State.

8 When certifying the amount of a monthly disbursement to a
9 municipality under this Section, the Department shall increase
10 or decrease such amount by an amount necessary to offset any
11 misallocation of previous disbursements. The offset amount
12 shall be the amount erroneously disbursed within the previous 6
13 months from the time a misallocation is discovered.

14 The Department of Revenue shall implement Public Act 91-649
15 ~~this amendatory Act of the 91st General Assembly~~ so as to
16 collect the tax on and after January 1, 2002.

17 As used in this Section, "municipal" and "municipality"
18 means a city, village or incorporated town, including an
19 incorporated town which has superseded a civil township.

20 This Section shall be known and may be cited as the
21 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

22 (Source: P.A. 99-217, eff. 7-31-15; 100-23, eff. 7-6-17;
23 100-587, eff. 6-4-18; 100-1171, eff. 1-4-19; revised
24 1-9-19.)".