



Rep. Thomas M. Bennett

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10200HB2054ham001

LRB102 12271 AWJ 22979 a

1 AMENDMENT TO HOUSE BILL 2054

2 AMENDMENT NO. _____. Amend House Bill 2054 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing
5 Section 5-1006.7 as follows:

6 (55 ILCS 5/5-1006.7)

7 Sec. 5-1006.7. School facility and resources occupation
8 taxes.

9 (a) In any county, a tax shall be imposed upon all persons
10 engaged in the business of selling tangible personal property,
11 other than personal property titled or registered with an
12 agency of this State's government, at retail in the county on
13 the gross receipts from the sales made in the course of
14 business to provide revenue to be used exclusively for (i)
15 school facility purposes (except as otherwise provided in this
16 Section), (ii) school resource officers and mental health

1 professionals, or (iii) school facility purposes, school
2 resource officers, and mental health professionals if a
3 proposition for the tax has been submitted to the electors of
4 that county and approved by a majority of those voting on the
5 question as provided in subsection (c). The tax under this
6 Section shall be imposed only in one-quarter percent
7 increments and may not exceed 1%.

8 This additional tax may not be imposed on tangible
9 personal property taxed at the 1% rate under the Retailers'
10 Occupation Tax Act. Beginning December 1, 2019 and through
11 December 31, 2020, this tax is not imposed on sales of aviation
12 fuel unless the tax revenue is expended for airport-related
13 purposes. If the county does not have an airport-related
14 purpose to which it dedicates aviation fuel tax revenue, then
15 aviation fuel is excluded from the tax. The county must comply
16 with the certification requirements for airport-related
17 purposes under Section 2-22 of the Retailers' Occupation Tax
18 Act. For purposes of this Section, "airport-related purposes"
19 has the meaning ascribed in Section 6z-20.2 of the State
20 Finance Act. Beginning January 1, 2021, this tax is not
21 imposed on sales of aviation fuel for so long as the revenue
22 use requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are
23 binding on the county. The Department of Revenue has full
24 power to administer and enforce this subsection, to collect
25 all taxes and penalties due under this subsection, to dispose
26 of taxes and penalties so collected in the manner provided in

1 this subsection, and to determine all rights to credit
2 memoranda arising on account of the erroneous payment of a tax
3 or penalty under this subsection. The Department shall deposit
4 all taxes and penalties collected under this subsection into a
5 special fund created for that purpose.

6 In the administration of and compliance with this
7 subsection, the Department and persons who are subject to this
8 subsection (i) have the same rights, remedies, privileges,
9 immunities, powers, and duties, (ii) are subject to the same
10 conditions, restrictions, limitations, penalties, and
11 definitions of terms, and (iii) shall employ the same modes of
12 procedure as are set forth in Sections 1 through 10, 2 through
13 2-70 (in respect to all provisions contained in those Sections
14 other than the State rate of tax), 2a through 2h, 3 (except as
15 to the disposition of taxes and penalties collected, and
16 except that the retailer's discount is not allowed for taxes
17 paid on aviation fuel that are subject to the revenue use
18 requirements of 49 U.S.C. 47107(b) and 49 U.S.C. 47133), 4, 5,
19 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c,
20 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers'
21 Occupation Tax Act and all provisions of the Uniform Penalty
22 and Interest Act as if those provisions were set forth in this
23 subsection.

24 The certificate of registration that is issued by the
25 Department to a retailer under the Retailers' Occupation Tax
26 Act permits the retailer to engage in a business that is

1 taxable without registering separately with the Department
2 under an ordinance or resolution under this subsection.

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

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

16 This tax may not be imposed on tangible personal property
17 taxed at the 1% rate under the Service Occupation Tax Act.
18 Beginning December 1, 2019 and through December 31, 2020, this
19 tax is not imposed on sales of aviation fuel unless the tax
20 revenue is expended for airport-related purposes. If the
21 county does not have an airport-related purpose to which it
22 dedicates aviation fuel tax revenue, then aviation fuel is
23 excluded from the tax. The county must comply with the
24 certification requirements for airport-related purposes under
25 Section 2-22 of the Retailers' Occupation Tax Act. For
26 purposes of this Section, "airport-related purposes" has the

1 meaning ascribed in Section 6z-20.2 of the State Finance Act.
2 Beginning January 1, 2021, this tax is not imposed on sales of
3 aviation fuel for so long as the revenue use requirements of 49
4 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the county.

5 The tax imposed under this subsection and all civil
6 penalties that may be assessed as an incident thereof shall be
7 collected and enforced by the Department and deposited into a
8 special fund created for that purpose. The Department has full
9 power to administer and enforce this subsection, to collect
10 all taxes and penalties due under this subsection, to dispose
11 of taxes and penalties so collected in the manner provided in
12 this subsection, and to determine all rights to credit
13 memoranda arising on account of the erroneous payment of a tax
14 or penalty under this subsection.

15 In the administration of and compliance with this
16 subsection, the Department and persons who are subject to this
17 subsection shall (i) have the same rights, remedies,
18 privileges, immunities, powers and duties, (ii) be subject to
19 the same conditions, restrictions, limitations, penalties and
20 definition of terms, and (iii) employ the same modes of
21 procedure as are set forth in Sections 2 (except that that
22 reference to State in the definition of supplier maintaining a
23 place of business in this State means the county), 2a through
24 2d, 3 through 3-50 (in respect to all provisions contained in
25 those Sections other than the State rate of tax), 4 (except
26 that the reference to the State shall be to the county), 5, 7,

1 8 (except that the jurisdiction to which the tax is a debt to
2 the extent indicated in that Section 8 is the county), 9
3 (except as to the disposition of taxes and penalties
4 collected, and except that the retailer's discount is not
5 allowed for taxes paid on aviation fuel that are subject to the
6 revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C.
7 47133), 10, 11, 12 (except the reference therein to Section 2b
8 of the Retailers' Occupation Tax Act), 13 (except that any
9 reference to the State means the county), Section 15, 16, 17,
10 18, 19, and 20 of the Service Occupation Tax Act and all
11 provisions of the Uniform Penalty and Interest Act, as fully
12 as if those provisions were set forth herein.

13 Persons subject to any tax imposed under the authority
14 granted in this subsection may reimburse themselves for their
15 serviceman's tax liability by separately stating the tax as an
16 additional charge, which may be stated in combination, in a
17 single amount, with State tax that servicemen are authorized
18 to collect under the Service Use Tax Act, pursuant to any
19 bracketed schedules set forth by the Department.

20 (c) The tax under this Section may not be imposed until the
21 question of imposing the tax has been submitted to the
22 electors of the county at a regular election and approved by a
23 majority of the electors voting on the question. For all
24 regular elections held prior to August 23, 2011 (the effective
25 date of Public Act 97-542), upon a resolution by the county
26 board or a resolution by school district boards that represent

1 at least 51% of the student enrollment within the county, the
2 county board must certify the question to the proper election
3 authority in accordance with the Election Code.

4 For all regular elections held prior to August 23, 2011
5 (the effective date of Public Act 97-542), the election
6 authority must submit the question in substantially the
7 following form:

8 Shall (name of county) be authorized to impose a
9 retailers' occupation tax and a service occupation tax
10 (commonly referred to as a "sales tax") at a rate of
11 (insert rate) to be used exclusively for school facility
12 purposes?

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

15 If a majority of the electors voting on the question vote
16 in the affirmative, then the county may, thereafter, impose
17 the tax.

18 For all regular elections held on or after August 23, 2011
19 (the effective date of Public Act 97-542), the regional
20 superintendent of schools for the county must, upon receipt of
21 a resolution or resolutions of school district boards that
22 represent more than 50% of the student enrollment within the
23 county, certify the question to the proper election authority
24 for submission to the electors of the county at the next
25 regular election at which the question lawfully may be
26 submitted to the electors, all in accordance with the Election

1 Code.

2 For all regular elections held on or after August 23, 2011
3 (the effective date of Public Act 97-542) and before August
4 23, 2019 (the effective date of Public Act 101-455), the
5 election authority must submit the question in substantially
6 the following form:

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

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

13 If a majority of the electors voting on the question vote
14 in the affirmative, then the tax shall be imposed at the rate
15 set forth in the question.

16 For all regular elections held on or after August 23, 2019
17 (the effective date of Public Act 101-455), the election
18 authority must submit the question as follows:

19 (1) If the referendum is to expand the use of revenues
20 from a currently imposed tax exclusively for school
21 facility purposes to include school resource officers and
22 mental health professionals, the question shall be in
23 substantially the following form:

24 In addition to school facility purposes, shall
25 (name of county) school districts be authorized to use
26 revenues from the tax commonly referred to as the

1 school facility sales tax that is currently imposed in
2 (name of county) at a rate of (insert rate) for school
3 resource officers and mental health professionals?

4 (2) If the referendum is to increase the rate of a tax
5 currently imposed exclusively for school facility purposes
6 at less than 1% and dedicate the additional revenues for
7 school resource officers and mental health professionals,
8 the question shall be in substantially the following form:

9 Shall the tax commonly referred to as the school
10 facility sales tax that is currently imposed in (name
11 of county) at the rate of (insert rate) be increased to
12 a rate of (insert rate) with the additional revenues
13 used exclusively for school resource officers and
14 mental health professionals?

15 (3) If the referendum is to impose a tax in a county
16 that has not previously imposed a tax under this Section
17 exclusively for school facility purposes, the question
18 shall be in substantially the following form:

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

24 (4) If the referendum is to impose a tax in a county
25 that has not previously imposed a tax under this Section
26 exclusively for school resource officers and mental health

1 professionals, the question shall be in substantially the
2 following form:

3 Shall a retailers' occupation tax and a service
4 occupation tax (commonly referred to as a sales tax)
5 be imposed in (name of county) at a rate of (insert
6 rate) to be used exclusively for school resource
7 officers and mental health professionals?

8 (5) If the referendum is to impose a tax in a county
9 that has not previously imposed a tax under this Section
10 exclusively for school facility purposes, school resource
11 officers, and mental health professionals, the question
12 shall be in substantially the following form:

13 Shall a retailers' occupation tax and a service
14 occupation tax (commonly referred to as a sales tax)
15 be imposed in (name of county) at a rate of (insert
16 rate) to be used exclusively for school facility
17 purposes, school resource officers, and mental health
18 professionals?

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

21 If a majority of the electors voting on the question vote
22 in the affirmative, then the tax shall be imposed at the rate
23 set forth in the question.

24 For the purposes of this subsection (c), "enrollment"
25 means the head count of the students residing in the county on
26 the last school day of September of each year, which must be

1 reported on the Illinois State Board of Education Public
2 School Fall Enrollment/Housing Report.

3 (d) Except as otherwise provided, the Department shall
4 immediately pay over to the State Treasurer, ex officio, as
5 trustee, all taxes and penalties collected under this Section
6 to be deposited into the School Facility Occupation Tax Fund,
7 which shall be an unappropriated trust fund held outside the
8 State treasury. Taxes and penalties collected on aviation fuel
9 sold on or after December 1, 2019 and through December 31,
10 2020, shall be immediately paid over by the Department to the
11 State Treasurer, ex officio, as trustee, for deposit into the
12 Local Government Aviation Trust Fund. The Department shall
13 only pay moneys into the Local Government Aviation Trust Fund
14 under this Section for so long as the revenue use requirements
15 of 49 U.S.C. 47107(b) and 49 U.S.C. 47133 are binding on the
16 county.

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 the regional
20 superintendents of schools in counties from which retailers or
21 servicemen have paid taxes or penalties to the Department
22 during the second preceding calendar month. The amount to be
23 paid to each regional superintendent of schools and disbursed
24 to him or her in accordance with Section 3-14.31 of the School
25 Code, is equal to the amount (not including credit memoranda
26 and not including taxes and penalties collected on aviation

1 fuel sold on or after December 1, 2019 and through December 31,
2 2020) collected from the county under this Section during the
3 second preceding calendar month by the Department, (i) less 2%
4 of that amount (except the amount collected on aviation fuel
5 sold on or after December 1, 2019 and through December 31,
6 2020), of which 1% shall be deposited into the Tax Compliance
7 and Administration Fund and shall be used by the Department,
8 subject to appropriation, to cover the costs of the Department
9 in administering and enforcing the provisions of this Section,
10 on behalf of the county, and 1% shall be distributed to the
11 regional superintendent of schools to cover the costs in
12 administering and enforcing the provisions of this Section,
13 (ii) plus an amount that the Department determines is
14 necessary to offset any amounts that were erroneously paid to
15 a different taxing body; (iii) less an amount equal to the
16 amount of refunds made during the second preceding calendar
17 month by the Department on behalf of the county; and (iv) less
18 any amount that the Department determines is necessary to
19 offset any amounts that were payable to a different taxing
20 body but were erroneously paid to the county. When certifying
21 the amount of a monthly disbursement to a regional
22 superintendent of schools under this Section, the Department
23 shall increase or decrease the amounts by an amount necessary
24 to offset any miscalculation of previous disbursements within
25 the previous 6 months from the time a miscalculation is
26 discovered.

1 Within 10 days after receipt by the Comptroller from the
2 Department of the disbursement certification to the regional
3 superintendents of the schools provided for in this Section,
4 the Comptroller shall cause the orders to be drawn for the
5 respective amounts in accordance with directions contained in
6 the certification.

7 If the Department determines that a refund should be made
8 under this Section to a claimant instead of issuing a credit
9 memorandum, then the Department shall notify the Comptroller,
10 who shall cause the order to be drawn for the amount specified
11 and to the person named in the notification from the
12 Department. The refund shall be paid by the Treasurer out of
13 the School Facility Occupation Tax Fund or the Local
14 Government Aviation Trust Fund, as appropriate.

15 (e) For the purposes of determining the local governmental
16 unit whose tax is applicable, a retail sale by a producer of
17 coal or another mineral mined in Illinois is a sale at retail
18 at the place where the coal or other mineral mined in Illinois
19 is extracted from the earth. This subsection does not apply to
20 coal or another mineral when it is delivered or shipped by the
21 seller to the purchaser at a point outside Illinois so that the
22 sale is exempt under the United States Constitution as a sale
23 in interstate or foreign commerce.

24 (f) Nothing in this Section may be construed to authorize
25 a tax to be imposed upon the privilege of engaging in any
26 business that under the Constitution of the United States may

1 not be made the subject of taxation by this State.

2 (g) If a county board imposes a tax under this Section
3 pursuant to a referendum held before August 23, 2011 (the
4 effective date of Public Act 97-542) at a rate below the rate
5 set forth in the question approved by a majority of electors of
6 that county voting on the question as provided in subsection
7 (c), then the county board may, by ordinance, increase the
8 rate of the tax up to the rate set forth in the question
9 approved by a majority of electors of that county voting on the
10 question as provided in subsection (c). If a county board
11 imposes a tax under this Section pursuant to a referendum held
12 before August 23, 2011 (the effective date of Public Act
13 97-542), then the board may, by ordinance, discontinue or
14 reduce the rate of the tax. If a tax is imposed under this
15 Section pursuant to a referendum held on or after August 23,
16 2011 (the effective date of Public Act 97-542) and before
17 August 23, 2019 (the effective date of Public Act 101-455),
18 then the county board may reduce or discontinue the tax, but
19 only in accordance with subsection (h-5) of this Section. If a
20 tax is imposed under this Section pursuant to a referendum
21 held on or after August 23, 2019 (the effective date of Public
22 Act 101-455), then the county board may reduce or discontinue
23 the tax, but only in accordance with subsection (h-10). If,
24 however, a school board issues bonds that are secured by the
25 proceeds of the tax under this Section, then the county board
26 may not reduce the tax rate or discontinue the tax if that rate

1 reduction or discontinuance would adversely affect the school
2 board's ability to pay the principal and interest on those
3 bonds as they become due or necessitate the extension of
4 additional property taxes to pay the principal and interest on
5 those bonds. If the county board reduces the tax rate or
6 discontinues the tax, then a referendum must be held in
7 accordance with subsection (c) of this Section in order to
8 increase the rate of the tax or to reimpose the discontinued
9 tax.

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

23 Beginning January 1, 2014, the results of any election
24 that imposes, reduces, or discontinues a tax under this
25 Section must be certified by the election authority, and any
26 ordinance that increases or lowers the rate or discontinues

1 the tax must be certified by the county clerk and, in each
2 case, filed with the Illinois Department of Revenue either (i)
3 on or before the first day of May, whereupon the Department
4 shall proceed to administer and enforce the tax or change in
5 the rate as of the first day of July next following the filing;
6 or (ii) on or before the first day of October, whereupon the
7 Department shall proceed to administer and enforce the tax or
8 change in the rate as of the first day of January next
9 following the filing.

10 (h) For purposes of this Section, "school facility
11 purposes" means (i) the acquisition, development,
12 construction, reconstruction, rehabilitation, improvement,
13 financing, architectural planning, and installation of capital
14 facilities consisting of buildings, structures, and durable
15 equipment and for the acquisition and improvement of real
16 property and interest in real property required, or expected
17 to be required, in connection with the capital facilities and
18 (ii) the payment of bonds or other obligations heretofore or
19 hereafter issued, including bonds or other obligations
20 heretofore or hereafter issued to refund or to continue to
21 refund bonds or other obligations issued, for school facility
22 purposes, provided that the taxes levied to pay those bonds
23 are abated by the amount of the taxes imposed under this
24 Section that are used to pay those bonds. "School facility
25 purposes" also includes fire prevention, safety, energy
26 conservation, accessibility, school security, and specified

1 repair purposes set forth under Section 17-2.11 of the School
2 Code.

3 (h-5) A county board in a county where a tax has been
4 imposed under this Section pursuant to a referendum held on or
5 after August 23, 2011 (the effective date of Public Act
6 97-542) and before August 23, 2019 (the effective date of
7 Public Act 101-455) may, by ordinance or resolution, submit to
8 the voters of the county the question of reducing or
9 discontinuing the tax. In the ordinance or resolution, the
10 county board shall certify the question to the proper election
11 authority in accordance with the Election Code. The election
12 authority must submit the question in substantially the
13 following form:

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

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

23 (h-10) A county board in a county where a tax has been
24 imposed under this Section pursuant to a referendum held on or
25 after August 23, 2019 (the effective date of Public Act
26 101-455) may, by ordinance or resolution, submit to the voters

1 of the county the question of reducing or discontinuing the
2 tax. In the ordinance or resolution, the county board shall
3 certify the question to the proper election authority in
4 accordance with the Election Code. The election authority must
5 submit the question in substantially the following form:

6 Shall the school facility and resources retailers'
7 occupation tax and service occupation tax (commonly
8 referred to as the school facility and resources sales
9 tax) currently imposed in (name of county) at a rate of
10 (insert rate) be (reduced to (insert rate))
11 (discontinued)?

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

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

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

19 (j) This Section may be cited as the County School
20 Facility and Resources Occupation Tax Law.

21 (Source: P.A. 100-1171, eff. 1-4-19; 101-10, eff. 6-5-19;
22 101-455, eff. 8-23-19; 101-604, eff. 12-13-19.)

23 Section 99. Effective date. This Act takes effect July 1,
24 2021."