



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/04/04, by Eileen Lyons

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1014.3 new

65 ILCS 5/8-11-21 new

Amends the Counties Code and the Illinois Municipal Code. Provides that, on and after June 1, 2004, neither a county board nor the corporate authorities of a municipality nor a retailer may enter into any agreement to share or rebate any portion of retailers' occupation taxes generated by retail sales of tangible personal property if: (1) the tax on those retail sales, absent the agreement, would have been paid to another unit of local government; and (2) the retailer maintains, within that other unit of local government, a retail location or a warehouse from which the tangible personal property is delivered to purchasers. Authorizes any unit of local government denied retailers' occupation tax revenue because of such an agreement to file an action in circuit court against the municipality or the county. Provides that if the unit of local government prevails in the circuit court action, it is entitled to damages in the amount of the tax revenue it was denied as a result of the agreement, statutory interest, costs, reasonable attorneys' fees, and an amount equal to 50% of the tax. Provides that any agreement to share or rebate retailers' occupation taxes entered into prior to June 1, 2004 is not affected by the provisions of the amendatory Act. Preempts home rule. Effective immediately.

LRB093 14711 MKM 40254 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning local government.

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

4 Section 5. The Counties Code is amended by adding Section
5 5-1014.3 as follows:

6 (55 ILCS 5/5-1014.3 new)

7 Sec. 5-1014.3. Agreements to share or rebate occupation
8 taxes.

9 (a) On and after June 1, 2004, neither a county board nor a
10 retailer shall enter into any agreement to share or rebate any
11 portion of retailers' occupation taxes generated by retail
12 sales of tangible personal property if: (1) the tax on those
13 retail sales, absent the agreement, would have been paid to
14 another unit of local government; and (2) the retailer
15 maintains, within that other unit of local government, a retail
16 location from which the tangible personal property is delivered
17 to purchasers, or a warehouse from which the tangible personal
18 property is delivered to purchasers. Any unit of local
19 government denied retailers' occupation tax revenue because of
20 an agreement that violates this Section may file an action in
21 circuit court against the county. Any agreement entered into
22 prior to June 1, 2004 is not affected by this amendatory Act of
23 the 93rd General Assembly. Any unit of local government that
24 prevails in the circuit court action is entitled to damages in
25 the amount of the tax revenue it was denied as a result of the
26 agreement, statutory interest, costs, reasonable attorney's
27 fees, and an amount equal to 50% of the tax.

28 (b) On and after the effective date of this amendatory Act
29 of the 93rd General Assembly, a home rule unit shall not enter
30 into any agreement prohibited by this Section. This Section is
31 a denial and limitation of home rule powers and functions under
32 subsection (g) of Section 6 of Article VII of the Illinois

1 Constitution.

2 Section 10. The Illinois Municipal Code is amended by
3 adding Section 8-11-21 as follows:

4 (65 ILCS 5/8-11-21 new)

5 Sec. 8-11-21. Agreements to share or rebate occupation
6 taxes.

7 (a) On and after June 1, 2004, neither the corporate
8 authorities of a municipality nor a retailer shall enter into
9 any agreement to share or rebate any portion of retailers'
10 occupation taxes generated by retail sales of tangible personal
11 property if: (1) the tax on those retail sales, absent the
12 agreement, would have been paid to another unit of local
13 government; and (2) the retailer maintains, within that other
14 unit of local government, a retail location from which the
15 tangible personal property is delivered to purchasers, or a
16 warehouse from which the tangible personal property is
17 delivered to purchasers. Any unit of local government denied
18 retailers' occupation tax revenue because of an agreement that
19 violates this Section may file an action in circuit court
20 against the municipality. Any agreement entered into prior to
21 June 1, 2004 is not affected by this amendatory Act of the 93rd
22 General Assembly. Any unit of local government that prevails in
23 the circuit court action is entitled to damages in the amount
24 of the tax revenue it was denied as a result of the agreement,
25 statutory interest, costs, reasonable attorney's fees, and an
26 amount equal to 50% of the tax.

27 (b) On and after the effective date of this amendatory Act
28 of the 93rd General Assembly, a home rule unit shall not enter
29 into any agreement prohibited by this Section. This Section is
30 a denial and limitation of home rule powers and functions under
31 subsection (g) of Section 6 of Article VII of the Illinois
32 Constitution.

33 Section 99. Effective date. This Act takes effect upon

1 becoming law.