



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB0272**

Introduced 2/3/2005, by Sen. Kimberly A. Lightford

**SYNOPSIS AS INTRODUCED:**

65 ILCS 5/8-11-1.1	from Ch. 24, par. 8-11-1.1
65 ILCS 5/8-11-1.3	from Ch. 24, par. 8-11-1.3
65 ILCS 5/8-11-1.4	from Ch. 24, par. 8-11-1.4
65 ILCS 5/8-11-1.5	from Ch. 24, par. 8-11-1.5

Amends the Illinois Municipal Code. Provides that the rates of the Non-Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, and the Non-Home Rule Municipal Use Tax Act may not exceed 1% (now, the rates may not exceed 1/2 of 1%).

LRB094 05888 BDD 35942 b

FISCAL 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 Illinois Municipal Code is amended by  
5 changing Sections 8-11-1.1, 8-11-1.3, 8-11-1.4, and 8-11-1.5  
6 as follows:

7 (65 ILCS 5/8-11-1.1) (from Ch. 24, par. 8-11-1.1)

8 Sec. 8-11-1.1. Non-home rule municipalities; imposition of  
9 taxes.

10 (a) The corporate authorities of a non-home rule  
11 municipality may, upon approval of the electors of the  
12 municipality pursuant to subsection (b) of this Section, impose  
13 by ordinance or resolution the tax authorized in Sections  
14 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act.

15 (b) The corporate authorities of the municipality may by  
16 ordinance or resolution call for the submission to the electors  
17 of the municipality the question of whether the municipality  
18 shall impose such tax. Such question shall be certified by the  
19 municipal clerk to the election authority in accordance with  
20 Section 28-5 of the Election Code and shall be in a form in  
21 accordance with Section 16-7 of the Election Code.

22 If a majority of the electors in the municipality voting  
23 upon the question vote in the affirmative, such tax shall be  
24 imposed.

25 An ordinance or resolution imposing the tax of not more  
26 than ~~1/2~~ of 1% hereunder or discontinuing the same shall be  
27 adopted and a certified copy thereof, together with a  
28 certification that the ordinance or resolution received  
29 referendum approval in the case of the imposition of such tax,  
30 filed with the Department of Revenue, on or before the first  
31 day of June, whereupon the Department shall proceed to  
32 administer and enforce the additional tax or to discontinue the

1 tax, as the case may be, as of the first day of September next  
2 following such adoption and filing. Beginning January 1, 1992,  
3 an ordinance or resolution imposing or discontinuing the tax  
4 hereunder shall be adopted and a certified copy thereof filed  
5 with the Department on or before the first day of July,  
6 whereupon the Department shall proceed to administer and  
7 enforce this Section as of the first day of October next  
8 following such adoption and filing. Beginning January 1, 1993,  
9 an ordinance or resolution imposing or discontinuing the tax  
10 hereunder shall be adopted and a certified copy thereof filed  
11 with the Department on or before the first day of October,  
12 whereupon the Department shall proceed to administer and  
13 enforce this Section as of the first day of January next  
14 following such adoption and filing. Beginning October 1, 2002,  
15 an ordinance or resolution imposing or discontinuing the tax  
16 under this Section or effecting a change in the rate of tax  
17 must either (i) be adopted and a certified copy of the  
18 ordinance or resolution filed with the Department on or before  
19 the first day of April, whereupon the Department shall proceed  
20 to administer and enforce this Section as of the first day of  
21 July next following the adoption and filing; or (ii) be adopted  
22 and a certified copy of the ordinance or resolution filed with  
23 the Department on or before the first day of October, whereupon  
24 the Department shall proceed to administer and enforce this  
25 Section as of the first day of January next following the  
26 adoption and filing. A non-home rule municipality may file a  
27 certified copy of an ordinance or resolution, with a  
28 certification that the ordinance or resolution received  
29 referendum approval in the case of the imposition of the tax,  
30 with the Department of Revenue, as required under this Section,  
31 only after October 2, 2000.

32 The tax authorized by this Section may not be more than  $\frac{1}{2}$   
33 ~~of~~ 1% and may be imposed only in  $\frac{1}{4}$ % increments.

34 (Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00; 92-739,  
35 eff. 1-1-03.)

1 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

2 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'  
3 Occupation Tax Act. The corporate authorities of a non-home  
4 rule municipality may impose a tax upon all persons engaged in  
5 the business of selling tangible personal property, other than  
6 on an item of tangible personal property which is titled and  
7 registered by an agency of this State's Government, at retail  
8 in the municipality for expenditure on public infrastructure or  
9 for property tax relief or both as defined in Section 8-11-1.2  
10 if approved by referendum as provided in Section 8-11-1.1, of  
11 the gross receipts from such sales made in the course of such  
12 business. The tax imposed may not be more than ~~1/2 of~~ 1% and  
13 may be imposed only in 1/4% increments. The tax may not be  
14 imposed on the sale of food for human consumption that is to be  
15 consumed off the premises where it is sold (other than  
16 alcoholic beverages, soft drinks, and food that has been  
17 prepared for immediate consumption) and prescription and  
18 nonprescription medicines, drugs, medical appliances, and  
19 insulin, urine testing materials, syringes, and needles used by  
20 diabetics. The tax imposed by a municipality pursuant to this  
21 Section and all civil penalties that may be assessed as an  
22 incident thereof shall be collected and enforced by the State  
23 Department of Revenue. The certificate of registration which is  
24 issued by the Department to a retailer under the Retailers'  
25 Occupation Tax Act shall permit such retailer to engage in a  
26 business which is taxable under any ordinance or resolution  
27 enacted pursuant to this Section without registering  
28 separately with the Department under such ordinance or  
29 resolution or under this Section. The Department shall have  
30 full power to administer and enforce this Section; to collect  
31 all taxes and penalties due hereunder; to dispose of taxes and  
32 penalties so collected in the manner hereinafter provided, and  
33 to determine all rights to credit memoranda, arising on account  
34 of the erroneous payment of tax or penalty hereunder. In the  
35 administration of, and compliance with, this Section, the  
36 Department and persons who are subject to this Section shall

1 have the same rights, remedies, privileges, immunities, powers  
2 and duties, and be subject to the same conditions,  
3 restrictions, limitations, penalties and definitions of terms,  
4 and employ the same modes of procedure, as are prescribed in  
5 Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in  
6 respect to all provisions therein other than the State rate of  
7 tax), 2c, 3 (except as to the disposition of taxes and  
8 penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,  
9 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the  
10 Retailers' Occupation Tax Act and Section 3-7 of the Uniform  
11 Penalty and Interest Act as fully as if those provisions were  
12 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  
27 amount specified, and to the person named, in such notification  
28 from the Department. Such refund shall be paid by the State  
29 Treasurer out of the non-home rule municipal retailers'  
30 occupation tax fund.

31 The Department shall forthwith pay over to the State  
32 Treasurer, ex officio, as trustee, all taxes and penalties  
33 collected hereunder. On or before the 25th day of each calendar  
34 month, the Department shall prepare and certify to the  
35 Comptroller the disbursement of stated sums of money to named  
36 municipalities, the municipalities to be those from which

1 retailers have paid taxes or penalties hereunder to the  
2 Department during the second preceding calendar month. The  
3 amount to be paid to each municipality shall be the amount (not  
4 including credit memoranda) collected hereunder during the  
5 second preceding calendar month by the Department plus an  
6 amount the Department determines is necessary to offset any  
7 amounts which were erroneously paid to a different taxing body,  
8 and not including an amount equal to the amount of refunds made  
9 during the second preceding calendar month by the Department on  
10 behalf of such municipality, and not including any amount which  
11 the Department determines is necessary to offset any amounts  
12 which were payable to a different taxing body but were  
13 erroneously paid to the municipality. Within 10 days after  
14 receipt, by the Comptroller, of the disbursement certification  
15 to the municipalities, provided for in this Section to be given  
16 to the Comptroller by the Department, the Comptroller shall  
17 cause the orders to be drawn for the respective amounts in  
18 accordance with the directions contained in such  
19 certification.

20 For the purpose of determining the local governmental unit  
21 whose tax is applicable, a retail sale, by a producer of coal  
22 or other mineral mined in Illinois, is a sale at retail at the  
23 place where the coal or other mineral mined in Illinois is  
24 extracted from the earth. This paragraph does not apply to coal  
25 or other mineral when it is delivered or shipped by the seller  
26 to the purchaser at a point outside Illinois so that the sale  
27 is exempt under the Federal Constitution as a sale in  
28 interstate or foreign commerce.

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

33 When certifying the amount of a monthly disbursement to a  
34 municipality under this Section, the Department shall increase  
35 or decrease such amount by an amount necessary to offset any  
36 misallocation of previous disbursements. The offset amount

1 shall be the amount erroneously disbursed within the previous 6  
2 months from the time a misallocation is discovered.

3 The Department of Revenue shall implement this amendatory  
4 Act of the 91st General Assembly so as to collect the tax on  
5 and after January 1, 2002.

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

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

11 (Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00; 92-739,  
12 eff. 1-1-03.)

13 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

14 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation  
15 Tax Act. The corporate authorities of a non-home rule  
16 municipality may impose a tax upon all persons engaged, in such  
17 municipality, in the business of making sales of service for  
18 expenditure on public infrastructure or for property tax relief  
19 or both as defined in Section 8-11-1.2 if approved by  
20 referendum as provided in Section 8-11-1.1, of the selling  
21 price of all tangible personal property transferred by such  
22 servicemen either in the form of tangible personal property or  
23 in the form of real estate as an incident to a sale of service.  
24 The tax imposed may not be more than ~~1/2~~ of 1% and may be  
25 imposed only in 1/4% increments. The tax may not be imposed on  
26 the sale of food for human consumption that is to be consumed  
27 off the premises where it is sold (other than alcoholic  
28 beverages, soft drinks, and food that has been prepared for  
29 immediate consumption) and prescription and nonprescription  
30 medicines, drugs, medical appliances, and insulin, urine  
31 testing materials, syringes, and needles used by diabetics. The  
32 tax imposed by a municipality pursuant to this Section and all  
33 civil penalties that may be assessed as an incident thereof  
34 shall be collected and enforced by the State Department of  
35 Revenue. The certificate of registration which is issued by the

1 Department to a retailer under the Retailers' Occupation Tax  
2 Act or under the Service Occupation Tax Act shall permit such  
3 registrant to engage in a business which is taxable under any  
4 ordinance or resolution enacted pursuant to this Section  
5 without registering separately with the Department under such  
6 ordinance or resolution or under this Section. The Department  
7 shall have full power to administer and enforce this Section;  
8 to collect all taxes and penalties due hereunder; to dispose of  
9 taxes and penalties so collected in the manner hereinafter  
10 provided, and to determine all rights to credit memoranda  
11 arising on account of the erroneous payment of tax or penalty  
12 hereunder. In the administration of, and compliance with, this  
13 Section the Department and persons who are subject to this  
14 Section shall have the same rights, remedies, privileges,  
15 immunities, powers and duties, and be subject to the same  
16 conditions, restrictions, limitations, penalties and  
17 definitions of terms, and employ the same modes of procedure,  
18 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in  
19 respect to all provisions therein other than the State rate of  
20 tax), 4 (except that the reference to the State shall be to the  
21 taxing municipality), 5, 7, 8 (except that the jurisdiction to  
22 which the tax shall be a debt to the extent indicated in that  
23 Section 8 shall be the taxing municipality), 9 (except as to  
24 the disposition of taxes and penalties collected, and except  
25 that the returned merchandise credit for this municipal tax may  
26 not be taken against any State tax), 10, 11, 12 (except the  
27 reference therein to Section 2b of the Retailers' Occupation  
28 Tax Act), 13 (except that any reference to the State shall mean  
29 the taxing municipality), the first paragraph of Section 15,  
30 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and  
31 Section 3-7 of the Uniform Penalty and Interest Act, as fully  
32 as if those provisions were set forth herein.

33 No municipality may impose a tax under this Section unless  
34 the municipality also imposes a tax at the same rate under  
35 Section 8-11-1.3 of this Code.

36 Persons subject to any tax imposed pursuant to the



1 authority granted in this Section may reimburse themselves for  
2 their serviceman's tax liability hereunder by separately  
3 stating such tax as an additional charge, which charge may be  
4 stated in combination, in a single amount, with State tax which  
5 servicemen are authorized to collect under the Service Use Tax  
6 Act, pursuant to such bracket schedules as the Department may  
7 prescribe.

8 Whenever the Department determines that a refund should be  
9 made under this Section to a claimant instead of issuing credit  
10 memorandum, the Department shall notify the State Comptroller,  
11 who shall cause the order to be drawn for the amount specified,  
12 and to the person named, in such notification from the  
13 Department. Such refund shall be paid by the State Treasurer  
14 out of the municipal retailers' occupation tax fund.

15 The Department shall forthwith pay over to the State  
16 Treasurer, ex officio, as trustee, all taxes and penalties  
17 collected hereunder. On or before the 25th day of each calendar  
18 month, the Department shall prepare and certify to the  
19 Comptroller the disbursement of stated sums of money to named  
20 municipalities, the municipalities to be those from which  
21 suppliers and servicemen have paid taxes or penalties hereunder  
22 to the Department during the second preceding calendar month.  
23 The amount to be paid to each municipality shall be the amount  
24 (not including credit memoranda) collected hereunder during  
25 the second preceding calendar month by the Department, and not  
26 including an amount equal to the amount of refunds made during  
27 the second preceding calendar month by the Department on behalf  
28 of such municipality. Within 10 days after receipt, by the  
29 Comptroller, of the disbursement certification to the  
30 municipalities and the General Revenue Fund, provided for in  
31 this Section to be given to the Comptroller by the Department,  
32 the Comptroller shall cause the orders to be drawn for the  
33 respective amounts in accordance with the directions contained  
34 in such certification.

35 The Department of Revenue shall implement this amendatory  
36 Act of the 91st General Assembly so as to collect the tax on

1 and after January 1, 2002.

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

6 As used in this Section, "municipal" or "municipality"  
7 means or refers to a city, village or incorporated town,  
8 including an incorporated town which has superseded a civil  
9 township.

10 This Section shall be known and may be cited as the  
11 "Non-Home Rule Municipal Service Occupation Tax Act".

12 (Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00; 92-739,  
13 eff. 1-1-03.)

14 (65 ILCS 5/8-11-1.5) (from Ch. 24, par. 8-11-1.5)

15 Sec. 8-11-1.5. Non-Home Rule Municipal Use Tax Act. The  
16 corporate authorities of a non-home rule municipality may  
17 impose a tax upon the privilege of using, in such municipality,  
18 any item of tangible personal property which is purchased at  
19 retail from a retailer, and which is titled or registered with  
20 an agency of this State's government, based on the selling  
21 price of such tangible personal property, as "selling price" is  
22 defined in the Use Tax Act, for expenditure on public  
23 infrastructure or for property tax relief or both as defined in  
24 Section 8-11-1.2, if approved by referendum as provided in  
25 Section 8-11-1.1. The tax imposed may not be more than ~~1/2~~ of  
26 1% and may be imposed only in 1/4% increments. Such tax shall  
27 be collected from persons whose Illinois address for title or  
28 registration purposes is given as being in such municipality.  
29 Such tax shall be collected by the municipality imposing such  
30 tax. A non-home rule municipality may not impose and collect  
31 the tax prior to January 1, 2002.

32 This Section shall be known and may be cited as the  
33 "Non-Home Rule Municipal Use Tax Act".

34 (Source: P.A. 91-649, eff. 1-1-00; 92-739, eff. 1-1-03.)