



Rep. James H. Meyer

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LRB095 06286 BDD 34991 a

1 AMENDMENT TO HOUSE BILL 3091

2 AMENDMENT NO. _____. Amend House Bill 3091 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 changing Sections 8-11-1 and 8-11-5 as follows:

6 (65 ILCS 5/8-11-1) (from Ch. 24, par. 8-11-1)

7 Sec. 8-11-1. Home Rule Municipal Retailers' Occupation Tax
8 Act. The corporate authorities of a home rule municipality may
9 impose a tax upon all persons engaged in the business of
10 selling tangible personal property, other than an item of
11 tangible personal property titled or registered with an agency
12 of this State's government, at retail in the municipality on
13 the gross receipts from these sales made in the course of such
14 business. If imposed, the tax shall only be imposed in 1/4%
15 increments. On and after September 1, 1991, this additional tax
16 may not be imposed on the sales of food for human consumption

1 that is to be consumed off the premises where it is sold (other
2 than alcoholic beverages, soft drinks and food that has been
3 prepared for immediate consumption) and prescription and
4 nonprescription medicines, drugs, medical appliances and
5 insulin, urine testing materials, syringes and needles used by
6 diabetics. The tax imposed by a home rule municipality under
7 this Section and all civil penalties that may be assessed as an
8 incident of the tax shall be collected and enforced by the
9 State Department of Revenue. The certificate of registration
10 that is issued by the Department to a retailer under the
11 Retailers' Occupation Tax Act shall permit the retailer to
12 engage in a business that is taxable under any ordinance or
13 resolution enacted pursuant to this Section without
14 registering separately with the Department under such
15 ordinance or resolution or under this Section. The Department
16 shall have full power to administer and enforce this Section;
17 to collect all taxes and penalties due hereunder; to dispose of
18 taxes and penalties so collected in the manner hereinafter
19 provided; and to determine all rights to credit memoranda
20 arising on account of the erroneous payment of tax or penalty
21 hereunder. In the administration of, and compliance with, this
22 Section the Department and persons who are subject to this
23 Section shall have the same rights, remedies, privileges,
24 immunities, powers and duties, and be subject to the same
25 conditions, restrictions, limitations, penalties and
26 definitions of terms, and employ the same modes of procedure,

1 as are prescribed in Sections 1, 1a, 1d, 1e, 1f, 1i, 1j, 1k,
2 1m, 1n, 2 through 2-65 (in respect to all provisions therein
3 other than the State rate of tax), 2c, 3 (except as to the
4 disposition of taxes and penalties collected), 4, 5, 5a, 5b,
5 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9,
6 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
7 Section 3-7 of the Uniform Penalty and Interest Act, as fully
8 as if those provisions were set forth herein.

9 No tax may be imposed by a home rule municipality under
10 this Section unless the municipality also imposes a tax at the
11 same rate under Section 8-11-5 of this Act.

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

19 Whenever the Department determines that a refund should be
20 made under this Section to a claimant instead of issuing a
21 credit memorandum, the Department shall notify the State
22 Comptroller, who shall cause the order to be drawn for the
23 amount specified and to the person named in the notification
24 from the Department. The refund shall be paid by the State
25 Treasurer out of the home rule municipal retailers' occupation
26 tax fund.

1 A municipality that has not otherwise imposed a tax under
2 this Section may impose a tax, for a defined and limited period
3 of time, under this Section that is limited to a defined
4 geographic area within the municipality and that is limited to
5 a tax at a rate not to exceed 2% on alcoholic beverages, soft
6 drinks, and food that has been prepared for immediate
7 consumption. The geographic area must be a defined, contiguous
8 area of no more than one square mile. At the time the ordinance
9 imposing the tax is adopted, the municipality must have
10 obtained the certified written consent of at least
11 three-fourths of the operators of the businesses upon which the
12 tax will be imposed. Proceeds of the tax shall be maintained by
13 the municipality in a separate account and may be used only for
14 the costs associated with land acquisition, design,
15 construction, and maintenance of parking facilities within the
16 defined geographic area. This tax may not be imposed for longer
17 than 25 years after the municipality first levies the tax.

18 The Department shall immediately pay over to the State
19 Treasurer, ex officio, as trustee, all taxes and penalties
20 collected hereunder. On or before the 25th day of each calendar
21 month, the Department shall prepare and certify to the
22 Comptroller the disbursement of stated sums of money to named
23 municipalities, the municipalities to be those from which
24 retailers have paid taxes or penalties hereunder to the
25 Department during the second preceding calendar month. The
26 amount to be paid to each municipality shall be the amount (not

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

16 In addition to the disbursement required by the preceding
17 paragraph and in order to mitigate delays caused by
18 distribution procedures, an allocation shall, if requested, be
19 made within 10 days after January 14, 1991, and in November of
20 1991 and each year thereafter, to each municipality that
21 received more than \$500,000 during the preceding fiscal year,
22 (July 1 through June 30) whether collected by the municipality
23 or disbursed by the Department as required by this Section.
24 Within 10 days after January 14, 1991, participating
25 municipalities shall notify the Department in writing of their
26 intent to participate. In addition, for the initial

1 distribution, participating municipalities shall certify to
2 the Department the amounts collected by the municipality for
3 each month under its home rule occupation and service
4 occupation tax during the period July 1, 1989 through June 30,
5 1990. The allocation within 10 days after January 14, 1991,
6 shall be in an amount equal to the monthly average of these
7 amounts, excluding the 2 months of highest receipts. The
8 monthly average for the period of July 1, 1990 through June 30,
9 1991 will be determined as follows: the amounts collected by
10 the municipality under its home rule occupation and service
11 occupation tax during the period of July 1, 1990 through
12 September 30, 1990, plus amounts collected by the Department
13 and paid to such municipality through June 30, 1991, excluding
14 the 2 months of highest receipts. The monthly average for each
15 subsequent period of July 1 through June 30 shall be an amount
16 equal to the monthly distribution made to each such
17 municipality under the preceding paragraph during this period,
18 excluding the 2 months of highest receipts. The distribution
19 made in November 1991 and each year thereafter under this
20 paragraph and the preceding paragraph shall be reduced by the
21 amount allocated and disbursed under this paragraph in the
22 preceding period of July 1 through June 30. The Department
23 shall prepare and certify to the Comptroller for disbursement
24 the allocations made in accordance with this paragraph.

25 For the purpose of determining the local governmental unit
26 whose tax is applicable, a retail sale by a producer of coal or

1 other mineral mined in Illinois is a sale at retail at the
2 place where the coal or other mineral mined in Illinois is
3 extracted from the earth. This paragraph does not apply to coal
4 or other mineral when it is delivered or shipped by the seller
5 to the purchaser at a point outside Illinois so that the sale
6 is exempt under the United States Constitution as a sale in
7 interstate or foreign commerce.

8 Nothing in this Section shall be construed to authorize a
9 municipality to impose a tax upon the privilege of engaging in
10 any business which under the Constitution of the United States
11 may not be made the subject of taxation by this State.

12 An ordinance or resolution imposing or discontinuing a tax
13 hereunder or effecting a change in the rate thereof shall be
14 adopted and a certified copy thereof filed with the Department
15 on or before the first day of June, whereupon the Department
16 shall proceed to administer and enforce this Section as of the
17 first day of September next following the adoption and filing.
18 Beginning January 1, 1992, an ordinance or resolution imposing
19 or discontinuing the tax hereunder or effecting a change in the
20 rate thereof shall be adopted and a certified copy thereof
21 filed with the Department on or before the first day of July,
22 whereupon the Department shall proceed to administer and
23 enforce this Section as of the first day of October next
24 following such adoption and filing. Beginning January 1, 1993,
25 an ordinance or resolution imposing or discontinuing the tax
26 hereunder or effecting a change in the rate thereof shall be

1 adopted and a certified copy thereof filed with the Department
2 on or before the first day of October, whereupon the Department
3 shall proceed to administer and enforce this Section as of the
4 first day of January next following the adoption and filing.
5 However, a municipality located in a county with a population
6 in excess of 3,000,000 that elected to become a home rule unit
7 at the general primary election in 1994 may adopt an ordinance
8 or resolution imposing the tax under this Section and file a
9 certified copy of the ordinance or resolution with the
10 Department on or before July 1, 1994. The Department shall then
11 proceed to administer and enforce this Section as of October 1,
12 1994. Beginning April 1, 1998, an ordinance or resolution
13 imposing or discontinuing the tax hereunder or effecting a
14 change in the rate thereof shall either (i) be adopted and a
15 certified copy thereof filed with the Department on or before
16 the first day of April, whereupon the Department shall proceed
17 to administer and enforce this Section as of the first day of
18 July next following the adoption and filing; or (ii) be adopted
19 and a certified copy thereof filed with the Department on or
20 before the first day of October, whereupon the Department shall
21 proceed to administer and enforce this Section as of the first
22 day of January next following the adoption and filing.

23 When certifying the amount of a monthly disbursement to a
24 municipality under this Section, the Department shall increase
25 or decrease the amount by an amount necessary to offset any
26 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 Any unobligated balance remaining in the Municipal
4 Retailers' Occupation Tax Fund on December 31, 1989, which fund
5 was abolished by Public Act 85-1135, and all receipts of
6 municipal tax as a result of audits of liability periods prior
7 to January 1, 1990, shall be paid into the Local Government Tax
8 Fund for distribution as provided by this Section prior to the
9 enactment of Public Act 85-1135. All receipts of municipal tax
10 as a result of an assessment not arising from an audit, for
11 liability periods prior to January 1, 1990, shall be paid into
12 the Local Government Tax Fund for distribution before July 1,
13 1990, as provided by this Section prior to the enactment of
14 Public Act 85-1135; and on and after July 1, 1990, all such
15 receipts shall be distributed as provided in Section 6z-18 of
16 the State Finance Act.

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

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

22 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

23 (65 ILCS 5/8-11-5) (from Ch. 24, par. 8-11-5)

24 Sec. 8-11-5. Home Rule Municipal Service Occupation Tax
25 Act. The corporate authorities of a home rule municipality may

1 impose a tax upon all persons engaged, in such municipality, in
2 the business of making sales of service at the same rate of tax
3 imposed pursuant to Section 8-11-1, of the selling price of all
4 tangible personal property transferred by such servicemen
5 either in the form of tangible personal property or in the form
6 of real estate as an incident to a sale of service. If imposed,
7 such tax shall only be imposed in 1/4% increments. On and after
8 September 1, 1991, this additional tax may not be imposed on
9 the sales of food for human consumption which is to be consumed
10 off the premises where it is sold (other than alcoholic
11 beverages, soft drinks and food which has been prepared for
12 immediate consumption) and prescription and nonprescription
13 medicines, drugs, medical appliances and insulin, urine
14 testing materials, syringes and needles used by diabetics. The
15 tax imposed by a home rule municipality pursuant to this
16 Section and all civil penalties that may be assessed as an
17 incident thereof shall be collected and enforced by the State
18 Department of Revenue. The certificate of registration which is
19 issued by the Department to a retailer under the Retailers'
20 Occupation Tax Act or under the Service Occupation Tax Act
21 shall permit such registrant to engage in a business which is
22 taxable under any ordinance or resolution enacted pursuant to
23 this Section without registering separately with the
24 Department under such ordinance or resolution or under this
25 Section. The Department shall have full power to administer and
26 enforce this Section; to collect all taxes and penalties due

1 hereunder; to dispose of taxes and penalties so collected in
2 the manner hereinafter provided, and to determine all rights to
3 credit memoranda arising on account of the erroneous payment of
4 tax or penalty hereunder. In the administration of, and
5 compliance with, this Section the Department and persons who
6 are subject to this Section shall have the same rights,
7 remedies, privileges, immunities, powers and duties, and be
8 subject to the same conditions, restrictions, limitations,
9 penalties and definitions of terms, and employ the same modes
10 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3
11 through 3-50 (in respect to all provisions therein other than
12 the State rate of tax), 4 (except that the reference to the
13 State shall be to the taxing municipality), 5, 7, 8 (except
14 that the jurisdiction to which the tax shall be a debt to the
15 extent indicated in that Section 8 shall be the taxing
16 municipality), 9 (except as to the disposition of taxes and
17 penalties collected, and except that the returned merchandise
18 credit for this municipal tax may not be taken against any
19 State tax), 10, 11, 12 (except the reference therein to Section
20 2b of the Retailers' Occupation Tax Act), 13 (except that any
21 reference to the State shall mean the taxing municipality), the
22 first paragraph of Section 15, 16, 17 (except that credit
23 memoranda issued hereunder may not be used to discharge any
24 State tax liability), 18, 19 and 20 of the Service Occupation
25 Tax Act and Section 3-7 of the Uniform Penalty and Interest
26 Act, as fully as if those provisions were set forth herein.

1 No tax may be imposed by a home rule municipality pursuant
2 to this Section unless such municipality also imposes a tax at
3 the same rate pursuant to Section 8-11-1 of this Act.

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

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

19 A municipality that has not otherwise imposed a tax under
20 this Section may impose a tax, for a defined and limited period
21 of time, under this Section that is limited to a defined
22 geographic area within the municipality and that is limited to
23 a tax at a rate not to exceed 2% on alcoholic beverages, soft
24 drinks, and food that has been prepared for immediate
25 consumption. The geographic area must be a defined, contiguous
26 area of no more than one square mile. At the time the ordinance

1 imposing the tax is adopted, the municipality must have
2 obtained the certified written consent of at least
3 three-fourths of the operators of the businesses upon which the
4 tax will be imposed. Proceeds of the tax shall be maintained by
5 the municipality in a separate account and may be used only for
6 the costs associated with land acquisition, design,
7 construction, and maintenance of parking facilities within the
8 defined geographic area. This tax may not be imposed for longer
9 than 25 years after the municipality first levies the tax.

10 The Department shall forthwith pay over to the State
11 Treasurer, ex-officio, as trustee, all taxes and penalties
12 collected hereunder. On or before the 25th day of each calendar
13 month, the Department shall prepare and certify to the
14 Comptroller the disbursement of stated sums of money to named
15 municipalities, the municipalities to be those from which
16 suppliers and servicemen have paid taxes or penalties hereunder
17 to the Department during the second preceding calendar month.
18 The amount to be paid to each municipality shall be the amount
19 (not including credit memoranda) collected hereunder during
20 the second preceding calendar month by the Department, and not
21 including an amount equal to the amount of refunds made during
22 the second preceding calendar month by the Department on behalf
23 of such municipality. Within 10 days after receipt, by the
24 Comptroller, of the disbursement certification to the
25 municipalities, provided for in this Section to be given to the
26 Comptroller by the Department, the Comptroller shall cause the

1 orders to be drawn for the respective amounts in accordance
2 with the directions contained in such certification.

3 In addition to the disbursement required by the preceding
4 paragraph and in order to mitigate delays caused by
5 distribution procedures, an allocation shall, if requested, be
6 made within 10 days after January 14, 1991, and in November of
7 1991 and each year thereafter, to each municipality that
8 received more than \$500,000 during the preceding fiscal year,
9 (July 1 through June 30) whether collected by the municipality
10 or disbursed by the Department as required by this Section.
11 Within 10 days after January 14, 1991, participating
12 municipalities shall notify the Department in writing of their
13 intent to participate. In addition, for the initial
14 distribution, participating municipalities shall certify to
15 the Department the amounts collected by the municipality for
16 each month under its home rule occupation and service
17 occupation tax during the period July 1, 1989 through June 30,
18 1990. The allocation within 10 days after January 14, 1991,
19 shall be in an amount equal to the monthly average of these
20 amounts, excluding the 2 months of highest receipts. Monthly
21 average for the period of July 1, 1990 through June 30, 1991
22 will be determined as follows: the amounts collected by the
23 municipality under its home rule occupation and service
24 occupation tax during the period of July 1, 1990 through
25 September 30, 1990, plus amounts collected by the Department
26 and paid to such municipality through June 30, 1991, excluding

1 the 2 months of highest receipts. The monthly average for each
2 subsequent period of July 1 through June 30 shall be an amount
3 equal to the monthly distribution made to each such
4 municipality under the preceding paragraph during this period,
5 excluding the 2 months of highest receipts. The distribution
6 made in November 1991 and each year thereafter under this
7 paragraph and the preceding paragraph shall be reduced by the
8 amount allocated and disbursed under this paragraph in the
9 preceding period of July 1 through June 30. The Department
10 shall prepare and certify to the Comptroller for disbursement
11 the allocations made in accordance with this paragraph.

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

16 An ordinance or resolution imposing or discontinuing a tax
17 hereunder or effecting a change in the rate thereof shall be
18 adopted and a certified copy thereof filed with the Department
19 on or before the first day of June, whereupon the Department
20 shall proceed to administer and enforce this Section as of the
21 first day of September next following such adoption and filing.
22 Beginning January 1, 1992, an ordinance or resolution imposing
23 or discontinuing the tax hereunder or effecting a change in the
24 rate thereof shall be adopted and a certified copy thereof
25 filed with the Department on or before the first day of July,
26 whereupon the Department shall proceed to administer and

1 enforce this Section as of the first day of October next
2 following such adoption and filing. Beginning January 1, 1993,
3 an ordinance or resolution imposing or discontinuing the tax
4 hereunder or effecting a change in the rate thereof shall be
5 adopted and a certified copy thereof filed with the Department
6 on or before the first day of October, whereupon the Department
7 shall proceed to administer and enforce this Section as of the
8 first day of January next following such adoption and filing.
9 However, a municipality located in a county with a population
10 in excess of 3,000,000 that elected to become a home rule unit
11 at the general primary election in 1994 may adopt an ordinance
12 or resolution imposing the tax under this Section and file a
13 certified copy of the ordinance or resolution with the
14 Department on or before July 1, 1994. The Department shall then
15 proceed to administer and enforce this Section as of October 1,
16 1994. Beginning April 1, 1998, an ordinance or resolution
17 imposing or discontinuing the tax hereunder or effecting a
18 change in the rate thereof shall either (i) be adopted and a
19 certified copy thereof filed with the Department on or before
20 the first day of April, whereupon the Department shall proceed
21 to administer and enforce this Section as of the first day of
22 July next following the adoption and filing; or (ii) be adopted
23 and a certified copy thereof filed with the Department on or
24 before the first day of October, whereupon the Department shall
25 proceed to administer and enforce this Section as of the first
26 day of January next following the adoption and filing.

1 Any unobligated balance remaining in the Municipal
2 Retailers' Occupation Tax Fund on December 31, 1989, which fund
3 was abolished by Public Act 85-1135, and all receipts of
4 municipal tax as a result of audits of liability periods prior
5 to January 1, 1990, shall be paid into the Local Government Tax
6 Fund, for distribution as provided by this Section prior to the
7 enactment of Public Act 85-1135. All receipts of municipal tax
8 as a result of an assessment not arising from an audit, for
9 liability periods prior to January 1, 1990, shall be paid into
10 the Local Government Tax Fund for distribution before July 1,
11 1990, as provided by this Section prior to the enactment of
12 Public Act 85-1135, and on and after July 1, 1990, all such
13 receipts shall be distributed as provided in Section 6z-18 of
14 the State Finance Act.

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

18 This Section shall be known and may be cited as the Home
19 Rule Municipal Service Occupation Tax Act.

20 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law."