

HB5343



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5343

by Rep. JoAnn D. Osmond

SYNOPSIS AS INTRODUCED:

745 ILCS 10/9-107

from Ch. 85, par. 9-107

Amends the Local Governmental and Governmental Employees Tort Immunity Act. Provides that funds from certain taxes authorized under the Act may be used for the funding of sprinklers, health or medical insurance premiums or health savings plans, and pension funds.

LRB098 19104 HEP 54255 b

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Local Governmental and Governmental
5 Employees Tort Immunity Act is amended by changing Section
6 9-107 as follows:

7 (745 ILCS 10/9-107) (from Ch. 85, par. 9-107)
8 Sec. 9-107. Policy; tax levy.

9 (a) The General Assembly finds that the purpose of this
10 Section is to provide an extraordinary tax for funding expenses
11 relating to (i) tort liability, (ii) liability relating to
12 actions brought under the federal Comprehensive Environmental
13 Response, Compensation, and Liability Act of 1980 or the
14 Environmental Protection Act, but only until December 31, 2010,
15 (iii) insurance, and (iv) risk management programs. Thus, the
16 tax has been excluded from various limitations otherwise
17 applicable to tax levies. Notwithstanding the extraordinary
18 nature of the tax authorized by this Section, however, it has
19 become apparent that some units of local government are using
20 the tax revenue to fund expenses more properly paid from
21 general operating funds. These uses of the revenue are
22 inconsistent with the limited purpose of the tax authorization.

23 Therefore, the General Assembly declares, as a matter of

1 policy, that (i) the use of the tax revenue authorized by this
2 Section for purposes not expressly authorized under this Act is
3 improper and (ii) the provisions of this Section shall be
4 strictly construed consistent with this declaration and the
5 Act's express purposes.

6 (b) A local public entity may annually levy or have levied
7 on its behalf taxes upon all taxable property within its
8 territory at a rate that will produce a sum that will be
9 sufficient to: (i) pay the cost of insurance, individual or
10 joint self-insurance (including reserves thereon), including
11 all operating and administrative costs and expenses directly
12 associated therewith, claims services and risk management
13 directly attributable to loss prevention and loss reduction,
14 legal services directly attributable to the insurance,
15 self-insurance, or joint self-insurance program, and
16 educational, inspectional, and supervisory services directly
17 relating to loss prevention and loss reduction, participation
18 in a reciprocal insurer as provided in Sections 72, 76, and 81
19 of the Illinois Insurance Code, or participation in a
20 reciprocal insurer, all as provided in settlements or judgments
21 under Section 9-102, including all costs and reserves directly
22 attributable to being a member of an insurance pool, under
23 Section 9-103; (ii) pay the costs of and principal and interest
24 on bonds issued under Section 9-105; (iii) pay judgments and
25 settlements under Section 9-104 of this Act; (iv) discharge
26 obligations under Section 34-18.1 of the School Code; (v) pay

1 judgments and settlements under the federal Comprehensive
2 Environmental Response, Compensation, and Liability Act of
3 1980 and the Environmental Protection Act, but only until
4 December 31, 2010; (vi) pay the costs authorized by the
5 Metro-East Sanitary District Act of 1974 as provided in
6 subsection (a) of Section 5-1 of that Act (70 ILCS 2905/5-1);
7 and (vii) pay the cost of risk management programs. Provided it
8 complies with any other applicable statutory requirements, the
9 local public entity may self-insure and establish reserves for
10 expected losses for any property damage or for any liability or
11 loss for which the local public entity is authorized to levy or
12 have levied on its behalf taxes for the purchase of insurance
13 or the payment of judgments or settlements under this Section.
14 The decision of the board to establish a reserve shall be based
15 on reasonable actuarial or insurance underwriting evidence and
16 subject to the limits and reporting provisions in Section
17 9-103.

18 If a school district was a member of a
19 joint-self-health-insurance cooperative that had more
20 liability in outstanding claims than revenue to pay those
21 claims, the school board of that district may by resolution
22 make a one-time transfer from any fund in which tort immunity
23 moneys are maintained to the fund or funds from which payments
24 to a joint-self-health-insurance cooperative can be or have
25 been made of an amount not to exceed the amount of the
26 liability claim that the school district owes to the

1 joint-self-health-insurance cooperative or that the school
2 district paid within the 2 years immediately preceding the
3 effective date of this amendatory Act of the 92nd General
4 Assembly.

5 Funds raised pursuant to this Section shall only be used
6 for the purposes specified in this Act, including protection
7 against and reduction of any liability or loss described
8 hereinabove and under Federal or State common or statutory law,
9 the Workers' Compensation Act, the Workers' Occupational
10 Diseases Act, and the Unemployment Insurance Act or the funding
11 of sprinklers, health or medical insurance premiums or health
12 savings plans, and pension funds. Funds raised pursuant to this
13 Section may be invested in any manner in which other funds of
14 local public entities may be invested under Section 2 of the
15 Public Funds Investment Act. Interest on such funds shall be
16 used only for purposes for which the funds can be used or, if
17 surplus, must be used for abatement of property taxes levied by
18 the local taxing entity.

19 A local public entity may enter into intergovernmental
20 contracts with a term of not to exceed 12 years for the
21 provision of joint self-insurance which contracts may include
22 an obligation to pay a proportional share of a general
23 obligation or revenue bond or other debt instrument issued by a
24 local public entity which is a party to the intergovernmental
25 contract and is authorized by the terms of the contract to
26 issue the bond or other debt instrument. Funds due under such

1 contracts shall not be considered debt under any constitutional
2 or statutory limitation and the local public entity may levy or
3 have levied on its behalf taxes to pay for its proportional
4 share under the contract. Funds raised pursuant to
5 intergovernmental contracts for the provision of joint
6 self-insurance may only be used for the payment of any cost,
7 liability or loss against which a local public entity may
8 protect itself or self-insure pursuant to Section 9-103 or for
9 the payment of which such entity may levy a tax pursuant to
10 this Section, including tort judgments or settlements, costs
11 associated with the issuance, retirement or refinancing of the
12 bonds or other debt instruments, the repayment of the principal
13 or interest of the bonds or other debt instruments, the costs
14 of the administration of the joint self-insurance fund,
15 consultant, and risk care management programs or the costs of
16 insurance. Any surplus returned to the local public entity
17 under the terms of the intergovernmental contract shall be used
18 only for purposes set forth in subsection (a) of Section 9-103
19 and Section 9-107 or for abatement of property taxes levied by
20 the local taxing entity.

21 Any tax levied under this Section shall be levied and
22 collected in like manner with the general taxes of the entity
23 and shall be exclusive of and in addition to the amount of tax
24 that entity is now or may hereafter be authorized to levy for
25 general purposes under any statute which may limit the amount
26 of tax which that entity may levy for general purposes. The

1 county clerk of the county in which any part of the territory
2 of the local taxing entity is located, in reducing tax levies
3 under the provisions of any Act concerning the levy and
4 extension of taxes, shall not consider any tax provided for by
5 this Section as a part of the general tax levy for the purposes
6 of the entity nor include such tax within any limitation of the
7 percent of the assessed valuation upon which taxes are required
8 to be extended for such entity.

9 With respect to taxes levied under this Section, either
10 before, on, or after the effective date of this amendatory Act
11 of 1994:

12 (1) Those taxes are excepted from and shall not be
13 included within the rate limitation imposed by law on taxes
14 levied for general corporate purposes by the local public
15 entity authorized to levy a tax under this Section.

16 (2) Those taxes that a local public entity has levied
17 in reliance on this Section and that are excepted under
18 paragraph (1) from the rate limitation imposed by law on
19 taxes levied for general corporate purposes by the local
20 public entity are not invalid because of any provision of
21 the law authorizing the local public entity's tax levy for
22 general corporate purposes that may be construed or may
23 have been construed to restrict or limit those taxes
24 levied, and those taxes are hereby validated. This
25 validation of taxes levied applies to all cases pending on
26 or after the effective date of this amendatory Act of 1994.

1 (3) Paragraphs (1) and (2) do not apply to a hospital
2 organized under Article 170 or 175 of the Township Code,
3 under the Town Hospital Act, or under the Township
4 Non-Sectarian Hospital Act and do not give any authority to
5 levy taxes on behalf of such a hospital in excess of the
6 rate limitation imposed by law on taxes levied for general
7 corporate purposes. A hospital organized under Article 170
8 or 175 of the Township Code, under the Town Hospital Act,
9 or under the Township Non-Sectarian Hospital Act is not
10 prohibited from levying taxes in support of tort liability
11 bonds if the taxes do not cause the hospital's aggregate
12 tax rate from exceeding the rate limitation imposed by law
13 on taxes levied for general corporate purposes.

14 Revenues derived from such tax shall be paid to the
15 treasurer of the local taxing entity as collected and used for
16 the purposes of this Section and of Section 9-102, 9-103, 9-104
17 or 9-105, as the case may be. If payments on account of such
18 taxes are insufficient during any year to meet such purposes,
19 the entity may issue tax anticipation warrants against the
20 current tax levy in the manner provided by statute.

21 (Source: P.A. 95-244, eff. 8-17-07; 95-723, eff. 6-23-08.)