

SECRETARY OF STATE[721]

Adopted and Filed

Rule making related to local option sales and services tax elections

The Secretary of State hereby amends Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3 and 47.1.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 423B and 2018 Iowa Acts, Senate File 2417.

Purpose and Summary

The Secretary of State has determined that as a result of 2018 Iowa Acts, Senate File 2417, rule 721—21.804(423B) is necessary to keep administrative rules in compliance with the Iowa Code. By defining “qualified counties,” Senate File 2417 adds a new category of counties and provides for a new method of initiating a local option sales and services tax election. This rule making allows for the new method of initiating a local option sales and services tax election, provided for in Iowa Code section 423B.1(4)“b” as amended by 2018 Iowa Acts, Senate File 2417, section 232, to be utilized for the March 5, 2019, special election date.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 12, 2018, as **ARC 3989C**. One comment was received. The commenter suggested a change to subrule 21.804(5) to reflect the amendment made by 2018 Iowa Acts, Senate File 2417, section 242, to Iowa Code section 423B.7(7)“b” that requires that “qualified counties” use no less than 50 percent of a local option sales and services tax for property tax relief. Subrule 21.804(5) was updated to reflect this requirement.

Adoption of Rule Making

This rule making was adopted by the Secretary of State on October 24, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 26, 2018.

The following rule-making action is adopted:

Adopt the following **new** rule 721—21.804(423B):

721—21.804(423B) Local option sales and services tax elections in qualified counties. This rule applies to local option sales and services tax elections held in qualified counties on March 5, 2019, and shall not apply to any local option sales and services tax election held in qualified counties after March 5, 2019. For local option sales and services tax elections held in qualified counties after March 5, 2019, rule 721—21.800(423B) shall control.

21.804(1) For purposes of this rule, “qualified county” means a county with a population in excess of 400,000, a county with a population of at least 130,000 but not more than 131,000, or a county with a population of at least 60,000 but not more than 70,000, according to the 2010 federal decennial census.

21.804(2) Petitions requesting imposition, rate change, use change, or repeal of local sales and services taxes shall be filed with the county board of supervisors.

a. Each person signing the petition shall include the person's address (including street number, if any) and the date that the person signed the petition.

b. Within 30 days after receipt of the petition, the county board of supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition, rate change, use change, or repeal of a local option sales and services tax. In the notice the supervisors shall include the date of the election.

c. The local option sales and services tax election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2(4) “a” but no sooner than 84 days after the date upon which notice is given to the county commissioner of elections.

21.804(3) As an alternative to the method of initiating a local option tax election described in subrule 21.804(2), governing bodies of cities and the county may initiate a local option tax election by filing motions with the county commissioner of elections pursuant to Iowa Code section 423B.1(4) “b” as amended by 2018 Iowa Acts, Senate File 2417, section 232, requesting submission of a local option tax imposition, rate change, use change, or repeal to the qualified electors. Within 30 days of receiving a sufficient number of motions, the county commissioner of elections shall notify affected jurisdictions of the local option tax election date. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2(4) “a” but no sooner than 84 days after the date upon which the commissioner received the motion triggering the election.

21.804(4) As an alternative to the methods of initiating a local option sales and services tax election described in subrules 21.804(2) and 21.804(3), the governing body of a city located in a county that is a qualified county, or the governing body of a qualified county for the unincorporated area of the qualified county, may initiate a local option sales and services tax election by filing a motion with the county commissioner of elections pursuant to Iowa Code section 423B.1(4) “b” as amended by 2018 Iowa Acts, Senate File 2417, section 232, requesting submission of a local option sales and services tax imposition, rate change, use change, or repeal to the qualified electors. Within 30 days of receiving a motion, the county commissioner shall notify affected jurisdictions of the local option sales and services tax election date. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2(4) “a” but no sooner than 62 days after the date upon which the commissioner received

the motion triggering the election. This subrule applies to motions received by the county commissioner of elections on or after January 1, 2019.

21.804(5) Notice of local option sales and services tax election.

a. Not less than 60 days before the date that a local option sales and services tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include sample ballots but shall include all of the information that will appear on the ballot for each city and for the voters in the unincorporated areas of the county.

b. The city councils and the county supervisors, as applicable, shall provide to the county commissioner the following information to be included in the notice and on the ballots for imposition elections:

(1) The rate of the tax.

(2) The date the tax will be imposed, which shall be the next implementation date provided in Iowa Code section 423B.6 following the date of the election and at least 90 days after the date of the election, except that an election to impose a local option sales and services tax on a date immediately following the scheduled repeal date of an existing similar tax may be held at any time that otherwise complies with the requirements of Iowa Code chapter 423B. The imposition date shall be uniform in all areas of the county voting on the tax at the same election.

(3) The approximate amount of local option sales and services tax revenues that will be used for property tax relief in the jurisdiction.

(4) A statement of the specific purposes other than property tax relief for which revenues will be expended in the jurisdiction.

c. If either of the methods of initiating a local option sales and services tax election described in subrules 21.804(2) and 21.804(3) is utilized, the information to be included in the notice shall be provided to the commissioner by the city councils of each city in the county not later than 67 days before the date of the election. If the method of initiating a local option sales and services tax election described in subrule 21.804(4) is utilized, then the information to be included in the notice shall be provided to the county commissioner of elections by the governing body of the city or the county for the unincorporated area of the county, as applicable, not later than 62 days before the date of the election. If a jurisdiction fails to provide the information in subparagraphs 21.804(5) “b”(1), 21.804(5) “b”(3), and 21.804(5) “b”(4), the following information shall be substituted in the notice and on the ballot:

(1) One percent (1%) for the rate of the tax.

(2) Fifty percent (50%) for property tax relief.

(3) The specific purpose for which the revenues will otherwise be expended is: Any lawful purpose of the city (or county).

d. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

This rule is intended to implement Iowa Code section 423B.1.

[Filed 10/26/18, effective 12/26/18]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/21/18.