

701—108.2(422E) Authorization, rate of tax, imposition, use of revenues, and administration.

108.2(1) Authorization and imposition. Effective April 20, 1998, a local option school infrastructure sales and service tax will only be imposed after an election in which a majority of those voting on the question favors the imposition of the tax. A local option school tax that has been approved by an election will be applied to all incorporated and unincorporated areas of that county. A request for the local option school tax may be made either by the county or a school district which contains at least 50 percent of the county population in which it is located. Each type of request has specific requirements for proposing the tax under this chapter. The requirements are set forth as follows:

a. Imposition by county. A petition must be submitted to a county board of supervisors requesting imposition of a local school infrastructure sales and service tax. To qualify, the petition must be signed by eligible voters of the whole county in a number equal to 5 percent of the persons in the whole county who voted in the last preceding state general election. Within 30 days of receiving the petition, the county board of supervisors must inform the county commissioner of elections to submit the question of imposing the tax to the registered voters of the whole county.

b. Imposition by school district. A motion or motions requesting the question of imposing a local option school infrastructure sales and service tax may be proposed and adopted by the governing body of a school district or school districts located within a county. To qualify for imposing this tax, a school district located within a county must contain a total, or a combined total in the case of more than one school district, of at least 50 percent of the population of the county. Upon adoption of the motion, the governing body of a school district must notify the county board of supervisors of the adoption of the motion. A motion is no longer valid at the time of the regular election of members of the governing body which adopted the motion. The county board of supervisors must then submit the motion to the county commissioner of elections, who will publish the notice of the ballot proposition regarding the local option school infrastructure sales and service tax.

108.2(2) Ballot proposition—procedure for imposition of the tax whether by county or the school district. A county commissioner for elections must submit the question for imposing the tax under this chapter at a state general election or a special election held at any time other than the time of a city regular election. The election cannot be sooner than 60 days after publication of the notice of the ballot proposition. The ballot proposition must be in the form established by the state commissioner of elections. For additional information regarding the form and content of the ballot proposition, see 721—21.803(77GA, HF2282).

108.2(3) Tax rate, election, and repeal. The maximum rate of tax imposed under this rule shall be 1 percent. The tax shall be imposed without regard to any other local sales and service tax authorized under the Iowa Code. The rate of tax may be increased up to 1 percent, decreased, or repealed after an election in which a majority of those voting are in favor of the question of rate change or repeal of the tax. However, the tax cannot be repealed before the tax has been in effect for one year.

The election for a change in the tax rate or repeal of the tax may be called and held under the same conditions as previously set forth for the election imposing the tax. The election may be held not sooner than 60 days following the publication of the notice of the ballot proposition.

Local option school infrastructure sales and service tax is automatically repealed at the expiration of ten years from the date of imposition or a shorter period provided in the ballot proposition.

A local option school infrastructure sales and service tax cannot be repealed or reduced in rate if bond obligations are outstanding unless sufficient funds to pay the principal, interest, and premium, if any, on the outstanding obligation at and prior to maturity have been properly set aside and pledged for that purpose.

For elections held on or after April 1, 2000, the tax may only be imposed with an effective date of either January 1 or July 1, but not sooner than 90 days following the favorable election.

For elections held on or after April 1, 2000, this tax shall be repealed on either June 30 or December 31, but not sooner than 90 days following a favorable election if one is held. If a tax has been imposed prior to April 1, 2000, and at the time of the election a date for repeal was specified on the ballot, the tax may be repealed on that date despite the previously mentioned dates set forth.

108.2(4) *Use of revenues.* Local option sales and service tax revenues received under this chapter shall be used for infrastructure purposes as defined in rule 701—108.1(422E). In addition, certain cities may obtain revenues from the local option school tax. A school district in a county that has imposed this tax may enter into an Iowa Code chapter 28E agreement with a city or cities whose boundaries encompass all or a part of the school district; the city may then receive a portion of the revenues from this tax as determined by the 28E agreement. A city may utilize revenues from this tax for school infrastructure purposes or any valid purposes authorized by the governing board of the city.

108.2(5) *Notice of election results.* The county auditor must give written notice by certified mail to the director of the results of an election in which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the tax, within ten days of the date of the election. This written notice must consist of a copy of the abstract of votes from the favorable election. For a definition of “abstract of votes” see 721—subrule 21.803(4).

108.2(6) *Administration of the tax.* The local option school infrastructure sales and service tax is to be imposed on the gross receipts of sales of tangible personal property sold within the local option jurisdiction and upon the gross receipts from services rendered, furnished, or performed within the local option jurisdiction. This tax may only be imposed by a county in the manner set forth previously in this rule. The tax may not be imposed on any transaction not subject to state sales tax. Effective May 1, 1999, transactions involving the use of natural gas, natural gas services, electricity or electric service are subject to a local excise tax that is to be imposed on the same basis as the state use tax, unless the sale or use involved in such transactions is subject to a franchise fee or user fee during the period the franchise fee or user fee is imposed. Except as otherwise provided in this chapter, all references to local option school infrastructure tax also include local excise tax and all rules governing the administration and collection of local option school infrastructure tax are also applicable to local excise tax. For further details, see 701—108.5(422E). With the exception of the natural gas and electric related transactions previously mentioned, there is no local option use tax. See rule 701—14.2(422,423) for a tax table setting forth the combined rate for a state sales tax of 5 percent and the local sales tax rate of 1 percent. Frequency of deposits and quarterly reports of local option tax filed with the department of revenue are governed by the retail sales tax provisions found in Iowa Code section 422.52. Local option tax collections shall not be included in the computation of the total tax to determine the frequency of the filing under Iowa Code section 422.52.

Prior to April 1, 2000, a local option school infrastructure tax cannot be imposed until 40 days after there has been a favorable election to impose the tax. All local option school infrastructure tax must be imposed January 1, April 1, July 1, or October 1. The tax can be repealed only on March 31, June 30, September 30, or December 31. However, this tax must not be repealed before the tax has been in effect for one year. For imposition and repeal date restrictions on or after April 1, 2000, see subrule 108.2(3).

This rule is intended to implement Iowa Code Supplement section 422E.2 as amended by 2000 Iowa Acts, House File 2136, section 37.