

MAR 6 1996
WAYS AND MEANS

HOUSE FILE 2468
BY BRAMMER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to a local option cigarette and tobacco tax.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2468

1 Section 1. Section 422B.1, subsections 3, 4, 5, 6, 8, and
2 9, Code Supplement 1995, are amended to read as follows:

3 3. A local option tax shall be imposed only after an
4 election at which a majority of those voting on the question
5 favors imposition and shall then be imposed until repealed as
6 provided in subsection 6, paragraph "a". If the tax is a
7 local vehicle tax imposed by a county, it shall apply to all
8 incorporated and unincorporated areas of the county. If the
9 tax is a local sales and services tax or a local cigarette and
10 tobacco tax imposed by a county, it shall only apply to those
11 incorporated areas and the unincorporated area of that county
12 in which a majority of those voting in the area on the tax
13 favors its imposition. For purposes of the local sales and
14 services tax or a local cigarette and tobacco tax, all cities
15 contiguous to each other shall be treated as part of one
16 incorporated area and the tax would be imposed in each of
17 those contiguous cities only if the majority of those voting
18 in the total area covered by the contiguous cities favors its
19 imposition. For purposes of the local sales and services tax
20 or a local cigarette and tobacco tax, a city is not contiguous
21 to another city if the only road access between the two cities
22 is through another state.

23 4. a. A county board of supervisors shall direct within
24 thirty days the county commissioner of elections to submit the
25 question of imposition of a local vehicle tax, or a local
26 sales and services tax, or a local cigarette and tobacco tax
27 to the registered voters of the incorporated and
28 unincorporated areas of the county upon receipt of a petition,
29 requesting imposition of a local vehicle tax, or a local sales
30 and services tax, or a local cigarette and tobacco tax, signed
31 by eligible electors of the whole county equal in number to
32 five percent of the persons in the whole county who voted at
33 the last preceding state general election. In the case of a
34 local vehicle tax, the petition requesting imposition shall
35 specify the rate of tax and the classes, if any, that are to

1 be exempt. If more than one valid petition is received, the
2 earliest received petition shall be used.

3 b. The question of the imposition of a local sales and
4 services tax or a local cigarette and tobacco tax shall be
5 submitted to the registered voters of the incorporated and
6 unincorporated areas of the county upon receipt by the county
7 commissioner of elections of the motion or motions, requesting
8 such submission, adopted by the governing body or bodies of
9 the city or cities located within the county or of the county,
10 for the unincorporated areas of the county, representing at
11 least one half of the population of the county. Upon adoption
12 of such motion, the governing body of the city or county, for
13 the unincorporated areas, shall submit the motion to the
14 county commissioner of elections and in the case of the
15 governing body of the city shall notify the board of
16 supervisors of the adoption of the motion. The county
17 commissioner of elections shall keep a file on all the motions
18 received and, upon reaching the population requirements, shall
19 publish notice of the ballot proposition concerning the
20 imposition of the local sales and services tax or a local
21 cigarette and tobacco tax. A motion ceases to be valid at the
22 time of the holding of the regular election for the election
23 of members of the governing body which adopted the motion.
24 The county commissioner of elections shall eliminate from the
25 file any motion that ceases to be valid. The manner provided
26 under this paragraph for the submission of the question of
27 imposition of a local sales and services tax or a local
28 cigarette and tobacco tax is an alternative to the manner
29 provided in paragraph "a".

30 5. The county commissioner of elections shall submit the
31 question of imposition of a local option tax at a state
32 general election or at a special election held at any time
33 other than the time of a city regular election. The election
34 shall not be held sooner than sixty days after publication of
35 notice of the ballot proposition. The ballot proposition

1 shall specify the type and rate of tax and in the case of a
2 vehicle tax the classes that will be exempt and in the case of
3 a local sales and services tax or a local cigarette and
4 tobacco tax the date it will be imposed. The ballot
5 proposition shall also specify the approximate amount of local
6 option tax revenues that will be used for property tax relief
7 and shall contain a statement as to the specific purpose or
8 purposes for which the revenues shall otherwise be expended.
9 If the county board of supervisors decides under subsection 6
10 to specify a date on which the local option sales and services
11 tax or a local cigarette and tobacco tax shall automatically
12 be repealed, the date of the repeal shall also be specified on
13 the ballot. The rate of the vehicle tax shall be in
14 increments of one dollar per vehicle as set by the petition
15 seeking to impose the tax. The rate of a local sales and
16 services tax shall not be more than one percent as set by the
17 governing body. The rate of the cigarette and tobacco tax
18 shall not be more than ten percent as set by the governing
19 body. The state commissioner of elections shall establish by
20 rule the form for the ballot proposition which form shall be
21 uniform throughout the state.

22 6. a. If a majority of those voting on the question of
23 imposition of a local option tax favor imposition of a local
24 option tax, the governing body of that county shall impose the
25 tax at the rate specified for an unlimited period. However,
26 in the case of a local sales and services tax or a local
27 cigarette and tobacco tax, the county shall not impose the tax
28 in any incorporated area or the unincorporated area if the
29 majority of those voting on the tax in that area did not favor
30 its imposition. For purposes of the local sales and services
31 tax or a local cigarette and tobacco tax, all cities
32 contiguous to each other shall be treated as part of one
33 incorporated area and the tax shall be imposed in each of
34 those contiguous cities only if the majority of those voting
35 on the tax in the total area covered by the contiguous cities

1 favored its imposition. The local option tax may be repealed
2 or the rate increased or decreased or the use thereof changed
3 after an election at which a majority of those voting on the
4 question of repeal or rate or use change favored the repeal or
5 rate or use change. The election at which the question of
6 repeal or rate or use change is offered shall be called and
7 held in the same manner and under the same conditions as
8 provided in subsections 4 and 5 for the election on the
9 imposition of the local option tax. However, in the case of a
10 local sales and services tax or a local cigarette and tobacco
11 tax where the tax has not been imposed countywide, the
12 question of repeal or imposition or rate or use change shall
13 be voted on only by the registered voters of the areas of the
14 county where the tax has been imposed or has not been imposed,
15 as appropriate. However, the governing body of the
16 incorporated area or unincorporated area where the local sales
17 and services tax or a local cigarette and tobacco tax is
18 imposed may, upon its own motion, request the county
19 commissioner of elections to hold an election in the
20 incorporated or unincorporated area, as appropriate, on the
21 question of the change in use of local sales and services tax
22 revenues. The election may be held at any time but not sooner
23 than sixty days following publication of the ballot
24 proposition. If a majority of those voting in the
25 incorporated or unincorporated area on the change in use favor
26 the change, the governing body of that area shall change the
27 use to which the revenues shall be used. The ballot
28 proposition shall list the present use of the revenues, the
29 proposed use, and the date after which revenues received will
30 be used for the new use.

31 When submitting the question of the imposition of a local
32 sales and services tax or a local cigarette and tobacco tax,
33 the county board of supervisors may direct that the question
34 contain a provision for the repeal, without election, of the
35 local sales and services tax or a local cigarette and tobacco

1 tax on a specific date, which date shall be the end of a
2 calendar quarter.

3 b. Within ten days of the election at which a majority of
4 those voting on the question favors the imposition, repeal, or
5 change in the rate of a local option tax, the governing body
6 shall give written notice to the director of revenue and
7 finance or, in the case of a local vehicle tax, to the
8 director of the department of transportation, of the result of
9 the election.

10 8. Local option taxes authorized to be imposed as provided
11 in this chapter are a local sales and services tax, a local
12 cigarette and tobacco tax, and a local vehicle tax. The rate
13 of the tax shall be in increments of one dollar per vehicle
14 for a vehicle tax as set on the petition seeking to impose the
15 vehicle tax. The rate of a local sales and services tax shall
16 not be more than one percent as set by the governing body.
17 The rate of the local cigarette and tobacco tax shall not be
18 more than ten percent as set by the governing body.

19 9. In a county that has imposed a local option sales and
20 services tax or a local option cigarette and tobacco tax, the
21 board of supervisors shall, notwithstanding any contrary
22 provision of this chapter, repeal the local option ~~sales-and~~
23 ~~services~~ tax in the unincorporated areas or in an incorporated
24 city area in which the tax has been imposed upon adoption of
25 its own motion for repeal in the unincorporated areas or upon
26 receipt of a motion adopted by the governing body of that
27 incorporated city area requesting repeal. The board of
28 supervisors shall repeal the local option ~~sales-and-services~~
29 tax effective at the end of the calendar quarter during which
30 it adopted the repeal motion or the motion for the repeal was
31 received. For purposes of this subsection, incorporated city
32 area includes an incorporated city which is contiguous to
33 another incorporated city.

34 Sec. 2. NEW SECTION. 422B.5 LOCAL CIGARETTE AND TOBACCO
35 TAX.

1 A local cigarette and tobacco tax at the rate of not more
2 than ten percent may be imposed by a county on the gross
3 receipts from sales of cigarettes and tobacco products sold at
4 retail by a retailer as defined under chapter 422, division
5 IV. A local cigarette and tobacco tax shall be imposed only
6 if the retailer is required under section 422.53 to have a
7 state tax permit to collect the state sales and services tax.
8 A local cigarette and tobacco tax is applicable to
9 transactions within those incorporated and unincorporated
10 areas of the county where it is imposed and shall be collected
11 by all persons required to collect state gross receipts taxes.
12 All cities contiguous to each other shall be treated as part
13 of one incorporated area and the tax would be imposed in each
14 of those contiguous cities only if the majority of those
15 voting in the total area covered by the contiguous cities
16 favor its imposition.

17 The amount of the sale, for purposes of determining the
18 amount of the local cigarette and tobacco tax, does not
19 include the amount of any state gross receipts taxes but does
20 include the amount of any tax imposed under chapter 453A.

21 A tax permit other than the state tax permit required under
22 section 422.53 shall not be required by local authorities.

23 Sec. 3. NEW SECTION. 422B.6 ADMINISTRATION.

24 A local cigarette and tobacco tax shall be imposed either
25 January 1, April 1, July 1 or October 1 following the
26 notification of the director of revenue and finance.

27 A local cigarette and tobacco tax shall be repealed only on
28 March 31, June 30, September 30, or December 31. However, a
29 local cigarette and tobacco tax shall not be repealed before
30 the tax has been in effect for one year. At least forty days
31 before the imposition or repeal of the tax, a county shall
32 provide notice of the action by certified mail to the director
33 of revenue and finance.

34 The director of revenue and finance shall administer a
35 local cigarette and tobacco tax as nearly as possible in

1 conjunction with the administration of state gross receipts
2 tax laws. The director shall provide appropriate forms or
3 provide on the regular state tax forms for reporting local
4 cigarette and tobacco tax liability.

5 The ordinance of a county board of supervisors imposing a
6 local cigarette and tobacco tax shall adopt by reference the
7 applicable provisions of the appropriate sections of chapter
8 422, division IV. All powers and requirements of the director
9 to administer the state gross receipts tax law are applicable
10 to the administration of a local cigarette and tobacco tax
11 law, including but not limited to, the provisions of sections
12 422.25, subsection 4, 422.30, 422.48 to 422.52, 422.54 to
13 422.58, 422.67, 422.68, 422.69, subsection 1, and 422.70 to
14 422.75. Local officials shall confer with the director of
15 revenue and finance for assistance in drafting the ordinance
16 imposing a local cigarette and tobacco tax. A certified copy
17 of the ordinance shall be filed with the director as soon as
18 possible after passage.

19 The director, in consultation with local officials, shall
20 collect and account for a local cigarette and tobacco tax.
21 The director shall certify each quarter the amount of local
22 cigarette and tobacco tax receipts and any interest and
23 penalties to be credited to the "local cigarette and tobacco
24 tax fund" established in the office of the treasurer of state.

25 All local tax moneys and interest and penalties received or
26 refunded one hundred eighty days or more after the date on
27 which the county repeals its local cigarette and tobacco tax
28 shall be deposited in or withdrawn from the state general
29 fund.

30 Sec. 4. NEW SECTION. 422B.7 PAYMENT TO LOCAL
31 GOVERNMENTS.

32 1. The director shall credit the local cigarette and
33 tobacco tax receipts and interest and penalties from the tax
34 imposed in the unincorporated area of a county to the county's
35 account in the local cigarette and tobacco tax fund and from

1 the tax imposed in a city to the city's account in the local
2 cigarette and tobacco tax fund. If the director is unable to
3 determine from which county any of the receipts were
4 collected, those receipts shall be allocated among the
5 possible counties based on allocation rules adopted by the
6 director.

7 2. a. The director of revenue and finance within fifteen
8 days of the beginning of each fiscal year shall send to each
9 city or county where the local option tax is imposed, an
10 estimate of the amount of tax moneys each city or county will
11 receive for the year and for each quarter of the year. At the
12 end of each quarter, the director may revise the estimates for
13 the year and remaining quarters.

14 b. The director of revenue and finance shall remit ninety
15 percent of the estimate tax receipts for the city or county to
16 the city or county after the end of each quarter no later than
17 the following dates: November 10, February 10, May 10, and
18 August 10.

19 c. The director of revenue and finance shall remit a final
20 payment of the remainder of tax moneys due the city or county
21 for the fiscal year before the due date for the payment of the
22 first quarter of the next fiscal year. If an overpayment has
23 resulted during the previous fiscal year, the first payment of
24 the new fiscal year shall be adjusted to reflect any
25 overpayment.

26 3. Local cigarette and tobacco tax moneys received by a
27 city or county shall be expended by the city or county for the
28 purpose of educating minors on the addictiveness and harmful
29 effects of cigarettes and tobacco products and enforcing
30 federal, state, and local cigarette and tobacco laws.

31 Sec. 5. Section 422B.8, unnumbered paragraph 1, Code
32 Supplement 1995, is amended to read as follows:

33 A local sales and services tax at the rate of not more than
34 one percent may be imposed by a county on the gross receipts
35 taxed by the state under chapter 422, division IV. A local

1 sales and services tax shall be imposed on the same basis as
2 the state sales and services tax and may not be imposed on the
3 sale of any property or on any service not taxed by the state,
4 except the tax shall not be imposed on the gross receipts from
5 the sale of motor fuel or special fuel as defined in chapter
6 452A, on the gross receipts from the sale of cigarettes and
7 tobacco products as defined in chapter 453A during the period
8 a local cigarette and tobacco tax is imposed, on the gross
9 receipts from the rental of rooms, apartments, or sleeping
10 quarters which are taxed under chapter 422A during the period
11 the hotel and motel tax is imposed, on the gross receipts from
12 the sale of natural gas or electric energy in a city or county
13 where the gross receipts are subject to a franchise fee or
14 user fee during the period the franchise or user fee is
15 imposed, on the gross receipts from the sale of equipment by
16 the state department of transportation, and on the gross
17 receipts from the sale of a lottery ticket or share in a
18 lottery game conducted pursuant to chapter 99E. A local sales
19 and services tax is applicable to transactions within those
20 incorporated and unincorporated areas of the county where it
21 is imposed and shall be collected by all persons required to
22 collect state gross receipts taxes. All cities contiguous to
23 each other shall be treated as part of one incorporated area
24 and the tax would be imposed in each of those contiguous
25 cities only if the majority of those voting in the total area
26 covered by the contiguous cities favor its imposition.

27 Sec. 6. Section 453A.56, Code 1995, is amended to read as
28 follows:

29 453A.56 UNIFORM APPLICATION.

30 Enforcement of this chapter shall be implemented in an
31 equitable manner throughout the state. For the purpose of
32 equitable and uniform implementation, application, and
33 enforcement of state and local laws and regulations, the
34 provisions of this chapter shall supersede any local law or
35 regulation which is inconsistent with or conflicts with the

1 provisions of this chapter. This section and any other
2 provision in this chapter shall not prohibit the imposition of
3 a local option cigarette and tobacco tax under chapter 422B.

4 EXPLANATION

5 The bill authorizes the imposition of a local option
6 cigarette and tobacco tax at a rate of up to 10 percent. In
7 order for the tax to be imposed, an election must be held and
8 a majority must vote in favor of its imposition. Initially,
9 the election would be countywide and then imposed in those
10 areas that voted in favor of it. Subsequently, the election
11 to impose, repeal, or change the use of revenues would be
12 limited to those areas that have already imposed it or have
13 not, as appropriate. For purposes of the tax, cities
14 contiguous to each other would be considered as one city and a
15 majority in the total area is needed for imposition. This
16 method for imposition, repeal, and change in use of a local
17 option cigarette and tobacco tax is like the present local
18 option sales and services tax. The tax would be imposed on
19 the gross receipts from the sale of cigarettes and tobacco
20 products at retail.

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