WAYS & MEANS

FILED FEB 24 1999

SENATE FILE 219

BY CONNOLLY

Passed Senate, Date ____________ Passed House, Date ____________

Vote: Ayes _______ Nays _______ Vote: Ayes _______ Nays _______

Approved ______________________________

A BILL FOR

An Act relating to the local option sales tax for school infrastructure, and including an effective date and retroactive applicability provision.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SF 219 WAYS & MEANS

TLSB 1733SS 78

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S.F. 219 H.F. ________

Section 1. Section 422E.1, subsection 2, Code 1999, is amended to read as follows:

2. The maximum rate of tax shall be one percent. The rate and duration shall be uniform throughout the county. The tax shall be imposed without regard to any other local sales and services tax authorized in chapter 422B, and is repealed at the expiration of a period of ten years of imposition or a shorter period as provided in the ballot proposition.

Sec. 2. Section 422E.1, subsection 3, Code 1999, is amended to read as follows:

3. Local sales and services tax moneys received by a county for school infrastructure purposes pursuant to this chapter shall be utilized solely for school infrastructure needs. For purposes of this chapter, "school infrastructure" means those ~~activities~~ purposes for which a school district is authorized to contract indebtedness and issue general obligation bonds under section 296.1, ~~except-those-activities related-to~~ excluding a teacher's or superintendent's home or homes~~;--These-activities-include-the-construction, reconstruction,-repair,-purchasing,-or-remodeling-of schoolhouses,-stadiums,-gyms,-fieldhouses,-and-bus-garages-and the-procurement-of-schoolhouse-construction-sites-and-the making-of-site-improvements;--Additionally,-"school infrastructure"-includes-the-payment-or-retirement-of outstanding-bonds-previously-issued-for-school-infrastructure purposes-as-defined-in-this-subsection,-and-the-payment-or retirement-of~~, to pay principal and interest on general obligation bonds issued under chapter 296 or section 298.20, or loan agreements under section 297.36, to make payments pursuant to a lease or lease purchase agreement relating to school infrastructure, or to pay principal and interest on bonds issued under section 422E.4.

Sec. 3. Section 422E.2, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. Alternatively, the question of imposition of a local sales and services tax for school infrastructure purposes may be proposed by motion or motions, requesting such submission, adopted by the governing body of a school district or school districts located within the county containing a total, or a combined total in the case of more than one school district, of at least one-half of the population of the county, or by the county board of supervisors. Only a school district's population residing in the county shall be counted when determining if the fifty percent population threshold has been reached. A motion shall specify the rate of tax, the date that the tax shall be imposed and repealed, and shall contain a statement as to the specific purpose or purposes for which the revenue shall be expended. Upon adoption of such motion, the governing body of a school district shall notify the board of supervisors of the adoption of the motion. The county board of supervisors shall submit the motion to the county commissioner of elections, who shall publish notice of the ballot proposition concerning the imposition of the local sales and services tax. A motion ceases to be valid at the time of the holding of the regular election for the election of members of the governing body which adopted the motion.

Sec. 4. Section 422E.2, subsection 2, Code 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. A motion requesting submission pursuant to paragraph "b" shall cease to be valid upon the reorganization or dissolution of a school district prior to the election, whose adoption of the motion was necessary to reach the fifty percent population threshold, unless no later than seventy-four days prior to the election date, the governing body of the newly formed school district informs the county commissioner of elections of the adoption of a motion ratifying the earlier motion to submit.

NEW PARAGRAPH. d. The rate and duration of tax, and text of the ballot proposition, shall be determined as follows:

(1) For a tax requested by the governing body or bodies of

a school district or districts pursuant to paragraph "b", the rate and duration of tax shall be established by the governing body of each school district which adopted a motion requesting imposition of the tax within the county. If the rate or duration established by the governing bodies differs, the county board of supervisors shall establish the rate, the duration, or both if applicable, in consultation with the governing bodies of the school districts which adopted a motion requesting imposition of the tax. For a tax requested by petition pursuant to paragraph "a", or by the county board of supervisors pursuant to paragraph "b", the rate and duration of tax shall be established by the county board of supervisors in consultation with the governing bodies of all the school districts located in the county.

(2) For a tax requested by the governing body or bodies of a school district or districts pursuant to paragraph "b", the purpose or purposes for which the revenues shall be expended shall be determined by the governing body of each school district located within the county. The school district shall notify the county board of supervisors of the purposes identified. The county commissioner of elections shall determine the text of the ballot proposition, which shall be uniform throughout the county, and which shall separately list the specific purposes for which revenues shall be expended for each school district. Revenue shall not be expended for a purpose authorized in this chapter unless that purpose was identified by a school district prior to the election and listed by the county commissioner of elections on the ballot proposition. For a tax requested by petition pursuant to paragraph "a", or by the county board of supervisors pursuant to paragraph "b", the purpose or purposes for which the revenues shall be expended shall be established by the county board of supervisors in consultation with the governing bodies of all the school districts located in the county.

(3) The county board of supervisors shall file the rate

and duration of tax, and statements of purposes for revenue expenditure, with the commissioner of elections no later than fourteen days prior to the publication of notice of the ballot proposition.

Sec. 5. Section 422E.2, subsection 3, Code 1999, is amended to read as follows:

3. The county commissioner of elections shall submit the question of imposition of a local sales and services tax for school infrastructure purposes at a state general election or at a special election ~~held-at-any-time-other-than-the-time-of a-city-regular-election~~. The special election shall not be held in conjunction with any city or school election. The election shall not be held sooner than sixty days after publication of notice of the ballot proposition by the county commissioner of elections. The ballot proposition shall specify the rate of tax, the date the tax will be imposed and repealed, and shall contain a statement as to the specific purpose or purposes for which the revenues shall be expended. ~~The-rate-of-tax-shall-not-be-more-than-one-percent-as-set-by the-county-board-of-supervisors.~~ The state commissioner of elections shall establish by rule the form for the ballot proposition which form shall be uniform throughout the state.

Sec. 6. Section 422E.2, subsection 4, paragraph a, Code 1999, is amended to read as follows:

a. The tax may be repealed or the rate increased, but not above one percent, or decreased after an election at which a majority of those voting on the question of repeal or rate change favored the repeal or rate change. The election at which the question of repeal or rate change is offered shall be called and held in the same manner and under the same conditions as provided in this section for the election on the imposition of the tax. ~~The-election-may-be-held-at-any-time but-not-sooner-than-sixty-days-following-publication-of-the ballot-proposition.~~ ~~However,-the~~ The tax shall not be repealed before it has been in effect for one year.

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Sec. 7. Section 422E.2, subsection 4, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the tax, the county board of supervisors shall give written notice to the director of revenue and finance of the result of the election. Election costs shall be apportioned among school districts within the county on a pro rata basis in proportion to the number of registered voters in each school district <u>who reside in the county</u> and the total number of registered voters in all of the school districts within the county <u>who reside in the county</u>.

Sec. 8. Section 422E.3, subsection 2, Code 1999, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed <u>on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed,</u> on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E.

Sec. 9. Section 422E.3, subsection 5, paragraph c, Code 1999, is amended to read as follows:

c. The director shall remit a final payment of the remainder of tax moneys due for the fiscal year before November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the ~~first~~ November payment ~~of-the-new-fiscal-year~~ shall be adjusted to reflect any overpayment.

Sec. 10. Section 422E.3, subsection 5, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If more than one school district, or a portion of a school district, is located within the county, tax receipts shall be remitted to each school district or portion of a school district in which the county tax is imposed in a pro rata share based upon the ratio which ~~the-percentage-of-actual-enrollment-for-the-school-district-that-attends-school-in-the-county-bears-to-the-percentage-of-the-total-combined-actual-enrollments-for-all-school-districts-that-attend-school-in-the-county~~ the actual enrollment of the school district residing in a portion of the county bears to the total combined actual enrollments for all the school districts residing in a portion of the county. The combined actual enrollment for a county, for purposes of this section, shall be determined for each county imposing a sales and services tax for school infrastructure purposes by the department of management based on the actual enrollment figures reported by October 1 to the department of management by the department of education pursuant to section 257.6, subsection 1. The combined actual enrollment count shall be forwarded to the director of the department of management by March 1, annually, for purposes of supplying estimated tax payment figures and making estimated tax payments pursuant to this section for the following fiscal year.

Sec. 11. Section 422E.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Construction contractors may make application to the department for a refund of the additional local sales and services tax paid under this chapter by reason of taxes paid on goods, wares, or merchandise under the conditions specified in section 422B.11. The refund shall be paid by the department from the appropriate school district's account in the local sales and services tax fund. The penalty provisions contained in section 422B.11, subsection 3, shall apply regarding an erroneous application for refund of local sales and services tax paid under this chapter.

Sec. 12. Section 422E.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Notwithstanding section 422E.1, subsection 3, if a school district receives local option sales and services tax for school infrastructure revenue in an amount exceeding that amount required to facilitate the school infrastructure purpose or purposes stated on the ballot proposition, the excess revenue may be expended by the district to reduce property taxes previously imposed pursuant to section 257.41, 257.46, 298.2, 298.4, or 298.10, or in lieu of the imposition of additional tax pursuant to those sections. A school district shall be authorized to expend the excess revenues pursuant to this subsection only if the ballot proposition concerning imposition of the tax included property tax reduction utilizing excess revenues as a potential use of the revenue.

Sec. 13. Section 422E.4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The board of directors of a school district shall be authorized to issue negotiable, interest-bearing school bonds, without election, and utilize tax receipts derived from the sales and services tax for school infrastructure purposes for principal and interest repayment. Proceeds of the bonds issued pursuant to this section shall be utilized solely for school infrastructure needs as school infrastructure is defined in section 422E.1, subsection 3. Issuance of bonds pursuant to this section shall be permitted only in a district which has imposed a local sales and services tax for school infrastructure purposes pursuant to section 422E.2. The provisions of sections 298.22 through 298.24 shall apply regarding the form, rate of interest, registration, redemption, and recording of bond issues pursuant to this section, with the exception that the maximum period during which principal on the bonds is payable shall not exceed a ten-year period, or the date of repeal stated on the ballot proposition. The provisions of section 75.1, relating to the passage of a six-month interval between bond elections, shall not apply to a bond issuance following the failure of a proposition to impose a local option sales and services tax for school infrastructure, or a proposition to impose a local option sales and services tax following the failure of a proposition to authorize issuance of bonds at an election.

Bonds issued under this section may be sold at public or private sale as determined by the board of directors of the school district. Bonds may bear dates, bear interest at rates not exceeding that permitted by chapter 74A, mature in one or more installments, be in either coupon or registered form, carry registration and conversion privileges, be payable as to principal and interest at times and places, be subject to terms of redemption prior to maturity with or without premium, and be in one or more denominations, all as provided by the resolution of the board of directors authorizing their issuance. The resolution may also prescribe additional provisions, terms, conditions, and covenants which the board of directors deems advisable, including provisions for creating and maintaining reserve funds, the issuance of additional bonds ranking on a parity with such bonds and additional bonds junior and subordinate to such bonds, and that such bonds shall rank on a parity with or be junior and subordinate to any bonds which may then be outstanding. Local sales and services tax for school infrastructure revenue bonds are a contract between the school district and holders and the resolution of the school district is a part of the contract.

Sec. 14. Section 422E.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A school district in which a local option sales tax for school infrastructure purposes has been imposed shall be authorized to enter into a chapter 28E agreement with one or more cities or a county whose boundaries encompass all or a part of the area of the school district. A city or cities entering into a chapter 28E agreement shall be authorized to expend its designated portion of the local option sales and services tax revenues for any valid purpose permitted in this chapter or authorized by the governing body of the city. A county entering into a chapter 28E agreement with a school district in which a local option sales tax for school infrastructure purposes has been imposed shall be authorized to expend its designated portion of the local option sales and services tax revenues to provide property tax relief within the boundaries of the school district located in the county. A school district shall be authorized to enter into a chapter 28E agreement pursuant to this section only if the ballot proposition concerning imposition of the tax included entering into a chapter 28E agreement as a potential use of the revenue.

Sec. 15. PREVIOUS ELECTIONS. A school district in which a local option sales and services tax for school infrastructure has been imposed as a result of an election held between July 1, 1998, and October 1, 1999, shall not be precluded from utilizing tax receipts for any purpose authorized in this chapter as of the effective date of this Act, even if the purpose was not specifically stated on the ballot proposition. The school district shall, however, publish notice of the intended use of the revenue prior to allocation of the revenue as provided in section 331.305.

Sec. 16. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment. Sections 7, 8, 10, and 11, of this Act are retroactively applicable to July 1, 1998, for purposes of apportionment of election costs for elections held on or after that date, for exemption of the tax on gross receipts from the sale of natural gas or electric energy subject to a franchise fee or user fee, for the distribution of tax receipts in counties with more than one school district, and for refunds of tax payable to construction contractors, respectively.

EXPLANATION

This bill amends certain Code provisions relating to the local option sales tax for school infrastructure.

The bill deletes a list of specified examples of school infrastructure activities, but maintains the specified designation of purposes for which a school district is authorized to contract indebtedness and issue general obligation bonds under Code section 296.1. The bill provides that additional school infrastructure purposes shall include the payment of principal and interest on general obligation bonds issued under Code chapter 296 or Code section 298.20, loan agreements under Code section 297.36, lease or lease purchase agreements relating to school infrastructure, or the payment of principal and interest on bonds issued under Code section 422E.4.

The bill contains several provisions relating to local option sales tax for school infrastructure election procedures and ballot contents. The bill provides, with regard to submission of the question of an election to impose the tax, by adoption of a motion by the school board or school boards of school districts located within the county representing a combined population of at least one-half the population of the county, that only a school district's population residing in the county shall be counted when determining if the minimum population threshold has been reached. The bill also provides that such a motion will not remain valid if a school district subsequently reorganizes or dissolves after adoption of the motion, and the adoption of the motion in that school district was necessary to reach the 50 percent population threshold. However, if the board of directors of the newly organized school district adopts a motion to ratify the earlier motion within 74 days prior to the election date, the motion will remain valid.

The bill additionally contains provisions relating to the determination of, and contents of, ballot propositions for imposition of the tax. The bill provides that the rate and duration of tax will be established by the governing bodies of the school districts located within the county. The bill provides that the county board of supervisors shall establish the rate, the duration, or both if applicable, in consultation with the school districts, in the event the governing bodies of the school districts involved cannot reach agreement.

The bill provides that the text of the ballot proposition, determined by the county commissioner of elections, will be uniform throughout the county, and will separately list the specific purposes for which the revenues shall be expended for each school district located within the county. While the commissioner of elections is responsible for the specific text, the respective purposes for which the revenues shall be expended shall be determined by each school district, conveyed to the county board of supervisors, and filed with the commissioner for incorporation onto the ballot. The bill also provides that the rate and duration of tax, and statements of purposes for revenue expenditure, shall be filed with the commissioner of elections by the county board of supervisors no later than 14 days prior to the publication of notice of the ballot proposition.

The bill provides that the county board of supervisors will establish the rate, duration, and text of the ballot proposition in the event of a request to impose the tax by petition or by the county board of supervisors.

The bill provides that regarding the apportionment of election costs among school districts within the county on a pro rata basis, the pro rata allocation shall be determined strictly with regard to registered voters residing in the county.

The bill specifies that the rate of tax imposed will be uniform throughout a county, and that a special election held on the question of imposition of the tax, or with regard to repeal, rate, or duration change, shall not be held in conjunction with any city or school election. The bill also provides that the six-month requirement between bond elections contained in Code section 75.1 does not apply to a bond election, following a failed election, to impose the local option sales tax school infrastructure, or vice versa. The bill additionally makes changes relating to authority to issue bonds consistent with other provisions of the Code.

The bill provides that revenues will be allocated in a county within which more than one school district, or portion of a school district, is located, between the districts based on the ratio of the actual enrollment residing in a portion of the county to the combined actual enrollment of all school districts residing in a portion of the county.

The bill provides that the gross receipts from the sale of natural gas or electric energy, in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, will be exempt from the local option sales tax for school infrastructure.

In addition, the bill provides that construction contractors can apply for a refund of additional local sales and services tax paid pursuant to the provisions of Code section 422B.11, with the refund paid out of the appropriate school district's account in the local sales and services tax fund. The bill provides that the director of revenue and finance will adjust the payment due in November with regard to any overpayment for the previous fiscal year.

The bill also provides that a school district will be authorized to utilize a portion of local option sales tax for school infrastructure revenue for property tax reduction. The bill provides that revenue received by a school district from the local option sales and services tax for school infrastructure exceeding the amount required to facilitate the school infrastructure purpose or purposes stated on the ballot proposition can be used to reduce property taxes previously imposed pursuant to Code section 257.41, 257.46, 298.2, 298.4, or 298.10, or in lieu of the imposition of additional tax pursuant to those sections. A school district will be authorized to expend the excess revenues only if the ballot proposition concerning imposition of the tax included property tax reduction utilizing excess revenues as a potential use of the revenue.

The bill additionally provides that a school district in which a local option sales tax for school infrastructure purposes has been imposed would be authorized to enter into a chapter 28E agreement with a county within which the school district is partially or completely located, in addition to the previous authorization in connection with a city or cities. The county would be authorized to expend its designated portion of the local option sales and services tax revenues to provide property tax relief within the boundaries of the school district located in the county, provided that entering into a chapter 28E agreement was listed on the ballot proposition as a potential use of the revenue.

The bill provides that a school district in which the tax is imposed as a result of an election held between July 1, 1998, and October 1, 1999, can utilize tax receipts for any of the purposes authorized in Code chapter 422E as of the effective date of the bill, even if not specified on the ballot proposition, provided that notice of the intended use is published pursuant to Code section 331.305.

The bill takes effect upon enactment, and applies retroactively to July 1, 1998, with regard to the apportionment of election costs for elections held on or after that date, exemption of the tax on gross receipts from the sale of natural gas or electric energy subject to a franchise fee or user fee, apportionment of tax revenues in counties with more than one school district, and refunds of tax payable to construction contractors.