Senate Study Bill 1093

SENATE FILE (PROPOSED COMMITTEE ON EDUCATION BILL BY CHAIRPERSON BOETTGER)

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

A BILL FOR

1 An Act relating to the establishment of a school infrastructure financing program by providing for a local option school infrastructure sales tax and providing for the use of the revenues from the local option tax for school infrastructure or property tax relief purposes and including an effective date. 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA: 8 TLSB 2304XC 80 9 mg/cl/14

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Section 1. Section 422E.1, Code 2003, is amended by adding 1

2 the following new subsection: 3 NEW SUBSECTION. 4. a. T 3 <u>NEW SUBSECTION</u>. 4. a. This chapter does not apply to any 4 county on or after April 1, 2003, except to the extent 5 provided in paragraph "b".

b. A county that has voted on and approved prior to April 1, 2003, a local sales and services tax for school 1 1 8 infrastructure purposes shall impose the tax until the end of 1 the ten=year period or the date for repeal specified on the 1 10 ballot.

1 11 Sec. 2. NEW SECTION. 422F.1 AUTHORIZATION == RATE OF TAX 1 12 == USE OF REVENUES.

1. A local option school infrastructure sales tax may be 1 14 imposed by a county on behalf of school districts as provided 1 15 in this chapter.

1 16 If a local option school infrastructure sales tax is 1 17 imposed by a county pursuant to this chapter, a local excise 1 18 tax for school infrastructure at the same rate shall be 1 19 imposed by the county on the purchase price of natural gas, 1 20 natural gas service, electricity, or electric service subject 1 21 to tax under chapter 423 and not exempted from tax by any 1 22 provision of chapter 423. The local excise tax for school 1 23 infrastructure is applicable only to the use of natural gas, 1 24 natural gas service, electricity, or electric service within 1 25 the incorporated and unincorporated areas of the county where 26 it is imposed and, except as otherwise provided in this 27 chapter, shall be collected and administered in the same 1 28 manner as the local option school infrastructure sales tax. 29 For purposes of this chapter, "local option school 30 infrastructure sales tax" shall also include the local excise 1 31 tax for school infrastructure.

- The maximum rate of tax shall be one percent. The tax 2. 33 shall be imposed without regard to any other local sales and 34 services tax authorized in chapter 422B, and is repealed on 35 December 31, 2013, or on an earlier date as provided in the 1 ballot proposition. The tax is in lieu of the local sales and services tax for school infrastructure authorized in chapter 3 422E.
- 3. 4 Local option school infrastructure sales tax moneys 5 received by a county pursuant to this chapter shall be 6 utilized for school infrastructure purposes or property tax 7 relief. For purposes of this chapter, "school infrastructure 8 purposes" means those purposes for which a school district is 9 authorized to contract indebtedness and issue general 2 10 obligation bonds under chapter 296 or to expend tax revenues 11 under section 298.3, the payment of principal and interest on 12 general obligation bonds issued under chapter 296 or section 2 13 298.20 or loan agreements under section 297.36, for carrying 14 on public educational and recreational activities pursuant to 2 15 chapter 300, payments made pursuant to a lease or lease= 2 16 purchase agreement, or the payment of principal and interest 2 17 on bonds issued under section 422F.5.
- Sec. 3. <u>NEW SECTION</u>. 422F.2 SCHOOL DISTRICT

2 19 INFRASTRUCTURE SALES TAX FUND.

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1. a. A school district infrastructure sales tax fund is 2 21 created as a separate and distinct fund in the state treasury 22 under the control of the department of revenue and finance. 2 23 Moneys in the fund include revenues credited to the fund 24 pursuant to section 422F.3, subsection 6, from all counties 25 that impose the tax, appropriations made to the fund, and 26 other moneys deposited into the fund. The moneys credited in 2 27 a fiscal year to the fund shall be distributed as provided in 28 paragraph "b".

(1) Each school district located in whole or in part b. 2 30 in a county that has imposed the local option school 2 31 infrastructure sales tax pursuant to this chapter shall 32 receive distributions for each student attending school in the 33 county on a per student basis calculated by the director of 34 revenue and finance by dividing the moneys available during 35 the previous calendar quarter by the combined actual enrollment for all school districts receiving distributions 2 under this paragraph "b".

(2) The combined actual enrollment for school districts, 4 for purposes of subparagraph (1), shall be calculated by 5 adding together the actual enrollment which attend school in 6 the county for each school district receiving distributions 7 under subparagraph (1) as determined by the department of 8 management based on the actual enrollment figures reported by 9 October 1 to the department of management by the department of 3 10 education pursuant to section 257.6, subsection 1. The 11 combined actual enrollment count shall be forwarded to the 3 12 director of revenue and finance by March 1, annually, for 3 13 purposes of supplying estimated tax payment figures and making 14 tax payments pursuant to subsection 2 for the following four 3 15 calendar quarters.

(3) If a county imposes the tax at a rate of less than one 3 17 percent or for less than a full fiscal year, the amount 3 18 available to the school districts within the county equals a 3 19 ratio of the tax rate divided by one percent multiplied by the 3 20 quotient of the number of quarters the tax is imposed divided 3 21 by four.

2. a. The director of revenue and finance by April 10 3 23 preceding each fiscal year shall send to each school district 3 24 an estimate of the amount of tax moneys each school district 3 25 will receive for the year and for each quarter of the year. 3 26 At the end of each quarter, the director may revise the 3 27 estimates for the year and remaining quarters.

b. The director shall remit ninety=five percent of the 3 29 estimated tax receipts collected during the previous calendar 3 30 quarter for the school district to the school district at or

31 before the end of the following calendar quarter.
32 c. The director shall remit a final payment of the

3 32 33 remainder of tax moneys due for the fiscal year before 34 November 10 of the next fiscal year. If an overpayment has 35 resulted during the previous fiscal year, the November payment shall be adjusted to reflect any overpayment.

Sec. 4. <u>NEW SECTION</u>. 422F.3 IMPOSITION BY COUNTY == 3 REPEAL.

1. a. A local option school infrastructure sales tax 5 shall be imposed by a county only after an election at which a 6 majority of those voting on the question favors imposition. A local option school infrastructure sales tax approved by a 8 majority vote shall apply to all incorporated and 9 unincorporated areas of the county.

4 10 b. Every county that has not voted on and approved prior 4 11 to April 1, 2003, a local sales and services tax for school 4 12 infrastructure purposes under chapter 422E shall hold a 4 13 special election on the question of the imposition of a local 4 14 option school infrastructure sales tax on October 14, 2003. 4 15 If the question of imposition is not approved by a majority 16 vote, subsequent elections on the same question may be held as 17 provided in subsection 2. Upon approval of the tax by a 4 18 majority vote, the tax shall be imposed January 1, 2004, in 4 19 the case of an election held on October 14, 2003, or imposed 4 20 January 1 or July 1 but not sooner than ninety days following 4 21 the favorable election, in the case of an election held after 22 October 14, 2003, but before September 15, 2012. However, in 23 the case of a county that has voted on and approved a local 24 sales and services tax for school infrastructure purposes 4 25 under chapter 422E prior to April 1, 2003, the question of 26 imposition of the tax under this section shall specify the 27 date when the tax under this section shall become effective.

4 28 The date shall only be on the date specified for the repeal of 4 29 the tax under chapter 422E, as provided in that chapter. Upon 4 30 the imposition of the tax under this section the county's tax 4 31 imposed under chapter 422E is repealed.

- After the original election required under subsection 2. 33 1, at which the question of the imposition of the tax is not 4 34 approved by a majority, subsequent elections may be held prior 35 to September 15, 2012, as follows:

 1 a. Upon receipt by a county board of supervisors of a
 - petition requesting imposition of a local option school infrastructure sales tax, signed by eligible electors of the 4 whole county equal in number to five percent of the persons in 5 the whole county who voted at the last preceding state general 6 election, the board shall within thirty days direct the county commissioner of elections to submit the question of imposition of the tax to the registered voters of the whole county.

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- b. Alternatively, the question of imposition of a local 10 option school infrastructure sales tax may be proposed by 11 motion or motions, requesting such submission, adopted by the 12 governing body of a school district or school districts 5 13 located within the county containing a total, or a combined 14 total in the case of more than one school district, of at 5 15 least one=half of the population of the county, or by the 5 16 county board of supervisors. Upon adoption of such motion, 5 17 the governing body of a school district shall notify the board 18 of supervisors of the adoption of the motion. The county 19 board of supervisors shall submit the school districts' motion 5 20 or its own motion to the county commissioner of elections, who 21 shall publish notice of the ballot proposition concerning the 22 imposition of the local option school infrastructure sales 5 23 tax. A school district motion ceases to be valid at the time 5 24 of the holding of the regular election for the election of
- 25 members of the governing body which adopted the motion. 26 c. The method for holding an election as specified in 27 paragraphs "a" and "b" also apply to a county that has voted 28 on and approved a local sales and services tax for school 29 infrastructure purposes under chapter 422E prior to April 1, 5 30 2003.
 - The county commissioner of elections shall submit the 3. 32 question of imposition of a local option school infrastructure 33 sales tax at a state general election or at a special election 34 held at any time other than the time of a city regular 35 election. The election shall not be held sooner than sixty 1 days after publication of notice of the ballot proposition. 2 The state commissioner of elections shall establish by rule 3 the form for the ballot proposition which form shall be 4 uniform throughout the state.
- 4. a. The tax may be repealed or the rate increased, but 6 not above one percent, or decreased after an election at which a majority of those voting on the question of repeal or rate 8 change favored the repeal or rate change. The election at 9 which the question of repeal or rate change is offered shall 10 be called and held in the same manner and under the same 6 11 conditions as provided in this section for the election on the 6 12 imposition of the tax. The election may be held at any time 6 13 but not sooner than sixty days following publication of the 6 14 ballot proposition. However, the tax shall not be repealed 6 15 before it has been in effect for one year.
- b. (1) Within ten days of the election at which a 6 17 majority of those voting on the question favors the 6 18 imposition, repeal, or change in the rate of the tax, the 6 19 county commissioner of elections shall give written notice of 6 20 the result of the election by sending a copy of the abstract 21 of the votes from the favorable election to the director of 6 22 revenue and finance.
- (2) A local option school infrastructure sales tax shall 24 not be repealed or reduced in rate if obligations are 6 25 outstanding which are payable as provided in section 422F.6, 6 26 unless funds sufficient to pay the principal, interest, and 27 premium, if any, on the outstanding obligations at and prior 28 to maturity have been properly set aside and pledged for that 6 29 purpose. However, this subparagraph does not apply to the 30 repeal of the tax on December 31, 2013, as specified in 31 subsection 5, paragraph "a".
 - 5. a. Each local option school infrastructure sales tax 33 imposed as a result of a favorable election held before 34 September 15, 2012, is repealed on December 31, 2013, or on an 35 earlier date as provided on the ballot proposition.
 - A local option school infrastructure sales tax shall be repealed June 30 or December 31, but not sooner than ninety days, following the favorable election. 3
 - 6. The director of revenue and finance shall credit tax 5 receipts and interest and penalties from the local option

6 school infrastructure sales tax to the school district infrastructure sales tax fund created in section 422F.2, 8 subsection 1.

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7. Costs of elections held pursuant to this section shall 7 10 be apportioned among school districts within the county on a 7 11 pro rata basis in proportion to the number of registered 12 voters in each school district who reside within the county 7 13 and the total number of registered voters within the county. NEW SECTION. Sec. 5. 422F.4 COLLECTION AND

7 15 ADMINISTRATION OF TAX. 7 16 1. If a majority of those voting on the question of 7 17 imposition of a local option school infrastructure sales tax 7 18 favors imposition of the tax, the tax shall be imposed by the 7 19 county board of supervisors within the county pursuant to 7 20 section 422F.3, at the rate specified on the gross receipts 7 21 taxed by the state under chapter 422, division IV.

The tax shall be imposed on the same basis as the state 2. . 23 sales and services tax or in the case of the use of natural 24 gas, natural gas service, electricity, or electric service on 25 the same basis as the state use tax and shall not be imposed 26 on the sale of any property or on any service not taxed by the 27 state, except the tax shall not be imposed on the gross 28 receipts from the sale of motor fuel or special fuel as 29 defined in chapter 452A which is consumed for highway use or 30 in watercraft or aircraft if the fuel tax is paid on the 31 transaction and a refund has not been or will not be allowed, 32 on the gross receipts from the rental of rooms, apartments, or 33 sleeping quarters which are taxed under chapter 422A during 34 the period the hotel and motel tax is imposed, on the gross 35 receipts taxed pursuant to chapter 422E during the period the 1 tax under chapter 422E is imposed, on the gross receipts from 2 the sale of equipment by the state department of 3 transportation, on the gross receipts from the sale of self= 4 propelled building equipment, pile drivers, motorized 5 scaffolding, or attachments customarily drawn or attached to 6 self=propelled building equipment, pile drivers, and motorized 7 scaffolding, including auxiliary attachments which improve the 8 performance, safety, operation, or efficiency of the 9 equipment, and replacement parts and are directly and 8 10 primarily used by contractors, subcontractors, and builders 8 11 for new construction, reconstruction, alterations, expansion, 8 12 or remodeling of real property or structures, and on the gross 8 13 receipts from the sale of a lottery ticket or share in a 8 14 lottery game conducted pursuant to chapter 99E and except the 8 15 tax shall not be imposed on the gross receipts from the sale 8 16 or use of natural gas, natural gas service, electricity, or 8 17 electric service in a city or county where the gross receipts 18 from the sale of natural gas or electric energy are subject to 8 19 a franchise fee or user fee during the period the franchise or 8 20 user fee is imposed.

The tax is applicable to transactions within the county 3. 22 where it is imposed and shall be collected by all persons 8 23 required to collect state gross receipts or local excise 8 24 taxes. However, a person required to collect state retail 8 25 sales tax under chapter 422, division IV, is not required to 8 26 collect the local sales tax on transactions delivered within 8 27 the area where the local sales tax is imposed unless the 28 person has physical presence in that taxing area. The amount 29 of the sale, for purposes of determining the amount of the 8 30 tax, does not include the amount of any state gross receipts 31 or excise taxes or other local option sales or excise taxes. 32 A tax permit other than the state tax permit required under 33 section 422.53 or 423.10 shall not be required by local 34 authorities.

The local option school infrastructure sales tax shall be administered as provided in section 422B.9

5. Construction contractors may make application to the 3 department for a refund of the additional local option school infrastructure sales tax paid under this chapter by reason of 5 taxes paid on goods, wares, or merchandise under the 6 conditions specified in section 422B.11. The refund shall be paid by the department from the school district infrastructure 8 sales tax fund. The penalty provisions contained in section 9 422B.11, subsection 3, shall apply regarding an erroneous 10 application for refund of local option school infrastructure 11 sales tax paid under this chapter.

NEW SECTION. Sec. 6. 422F.5 USE OF SCHOOL DISTRICT SALES 13 TAX MONEYS.

Moneys received by a school district from the 15 school district infrastructure sales tax fund under section 9 16 422F.2, subsection 1, paragraph "b", shall be spent for

9 17 property tax relief or infrastructure purposes according to an 9 18 infrastructure plan developed by the board of directors. 9 19 infrastructure plan may apply to more than one fiscal year, 9 20 but shall be reviewed periodically by the board of directors. 9 21 Prior to adoption of the plan, the board of directors shall 22 hold a public hearing on the question of approval of the 23 proposed plan. The board shall set forth its proposal and 24 shall publish the notice of the time and place of a public 25 hearing on the proposed plan. Notice of the time and place of 26 the public hearing shall be published not less than ten nor 27 more than twenty days before the public hearing in a newspaper 9 28 which is a newspaper of general circulation in the school 9 29 district. At the hearing, or no later than thirty days after 9 30 the date of the hearing, the board shall take action to adopt 9 31 the proposed plan.

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b. If the board adopts the plan, the board shall direct 33 the county commissioner of elections to submit the question of 34 the approval or disapproval of the infrastructure plan to the 9 35 registered voters of the school district at the next following 1 regular school election or a special election. If a majority of those voting on the question favor the plan of the board, the moneys received shall be used according to the plan 4 beginning with the first fiscal year following that election 5 until a change in the plan is approved at a subsequent 6 election by a majority of those voting on the question. 7 majority of those voting on the question at the election does 8 not favor the plan of the board, the district shall use the 9 moneys received as provided in paragraph "c" for the fiscal 10 10 year.

10 11 If a plan is not approved at an election, the question of 10 12 the approval of the plan or any part of that plan shall not be 10 13 submitted to the registered voters sooner than six months from 10 14 the date the plan or part of the plan was originally 10 15 submitted.

- c. If the infrastructure plan is not approved at an 10 17 election as provided in paragraph "b", or if a plan is not 10 18 approved by the board, moneys received by a school district or 10 19 moneys in excess of those needed for infrastructure purposes 10 20 according to an approved plan shall be used for the fiscal 10 21 year to reduce the following levies including income surtax, 10 22 if any, in the following order: 10 23 (1) Bond levies under sections 298.18 and 298.18A and all
- 10 24 other debt levies until the moneys received or the levies are 10 25 reduced to zero.
- (2) The regular physical plant and equipment levy under section 298.2, until the moneys received or the levy is 10 28 reduced to zero.
- 10 29 (3) The voter=approved physical plant and equipment levy 10 30 and income surtax, if any, under section 298.2, until the 10 31 moneys received or the levy and income surtax, if any, is 10 32 reduced to zero.
- (4)The public educational and recreational levy under 10 34 section 300.2, until the moneys received or the levy is 10 35 reduced to zero.
 - The schoolhouse tax levy under section 278.1, (5) subsection 7, Code 1989, until the moneys received or the levy is reduced to zero.

Any money remaining after the reduction of the levies specified in this paragraph "c" may be used for any authorized infrastructure purpose of the school district.

- 2. For purposes of this section, "infrastructure purposes" 8 means those purposes for which a school district is authorized 9 to contract indebtedness and issue general obligation bonds 11 10 under chapter 296 or to expend tax revenues under section 298.3, the payment of principal and interest on general obligation bonds issued under chapter 296 or section 298.20 or 11 12 11 13 loan agreements under section 297.36, for carrying on public 11 14 educational and recreational activities pursuant to chapter 300, payments made pursuant to a real property lease or lease= 11 15 11 16 purchase agreement, or the payment of principal and interest 11 17 on bonds issued under 422F.6.
- 11 18 3. Notwithstanding any other provision in this section, 11 19 moneys received by a school district from the school district 11 20 infrastructure sales tax fund during the fiscal year beginning 11 21 July 1, 2003, shall be dedicated for property tax relief by 11 22 reducing the levies specified in subsection 1, paragraph "c" 11 23 for taxes payable in the fiscal year beginning July 1, 2004. 24 However, if an infrastructure plan is approved at an election 25 by the required majority of those voting prior to March 1, 11 26 2004, any amount of such dedicated moneys may be used for the 11 27 purposes specified under the plan.

NEW SECTION. 422F.6 BONDING.

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11 28 The board of directors of a school district shall be 11 29 11 30 authorized to issue negotiable, interest=bearing school bonds, without election, and utilize tax receipts derived from the 11 32 local option school infrastructure sales tax for principal and 11 33 interest repayment. Proceeds of the bonds issued pursuant to 11 34 this section shall be utilized solely for school 11 35 infrastructure purposes as defined in section 422F.1 12 subsection 3. Issuance of bonds pursuant to this section 12 shall be permitted only in a district which has imposed a 3 local option school infrastructure sales tax pursuant to 4 section 422F.3. The provisions of sections 298.22 through 12 12 5 298.24 shall apply regarding the form, rate of interest, 12 6 registration, redemption, and recording of bond issues
7 pursuant to this section, with the exception that the maximum 12 12 12 8 period during which principal on the bonds is payable shall 12 9 not exceed a ten=year period, or the date of repeal stated on 12 10 the ballot proposition.

A school district in which a local option school 12 12 infrastructure sales tax has been imposed shall be authorized 12 13 to enter into a chapter 28E agreement with one or more cities 12 14 or a county whose boundaries encompass all or a part of the 12 15 area of the school district. A city or cities entering into a 12 16 chapter 28E agreement shall be authorized to expend its 12 17 designated portion of the local option school infrastructure 12 18 sales tax revenues for any valid purpose permitted in this 12 19 chapter or authorized by the governing body of the city. 12 20 county entering into a chapter 28E agreement with a school 12 21 district in which a local option school infrastructure sales 12 22 tax has been imposed shall be authorized to expend its 12 23 designated portion of the local option school infrastructure 12 24 sales tax revenues to provide property tax relief within the 12 25 boundaries of the school district located in the county. 12 26 school district where a local option school infrastructure 12 27 sales tax is imposed is also authorized to enter into a 12 28 chapter 28E agreement with another school district, a 12 29 community college, or an area education agency which is 12 30 located partially or entirely in or is contiguous to the 12 31 county where the tax is imposed. The school district, 12 32 community college, or area education agency shall only expend its designated portion of the local option school 12 33 infrastructure sales tax for infrastructure purposes. 12 34

The governing body of a city may authorize the issuance of 1 bonds which are payable from its designated portion of the 2 revenues of the local option school infrastructure sales tax, 3 and not from property tax, by following the authorization 4 procedures set forth for cities in section 384.83. A city may 5 pledge irrevocably any amount derived from its designated 6 portions of the revenues of the local option school infrastructure sales tax to the support or payment of such 8 bonds.

Sec. 8. <u>NEW SECTION</u>. 422F.7 REPEAL.

This chapter is repealed June 30, 2014, for fiscal years 13 11 beginning after that date.

Sec. 9. EFFECTIVE DATE. This Act, being deemed of 13 13 immediate importance, takes effect April 1, 2003. EXPLANATION

13 15 Present law provides for counties to impose a local sales 13 16 and services tax for school infrastructure purposes under Code 13 17 chapter 422E. This bill sets a moratorium on imposition by a county of such tax. However, those counties that have voted on and approved the tax prior to April 1, 2003, may continue 13 18 13 20 to impose the tax.

13 21 The bill provides for a new local option school infrastructure sales tax under new Code chapter 422F which tax is very similar to the present one. Each county that does not 13 22 13 23 13 24 have a chapter 422E tax in place on April 1, 2003, must hold a 13 25 special election on the question of imposing the new tax on 13 26 October 14, 2003. If the question of imposition is not 13 27 approved by a majority of the voters, subsequent elections may 13 28 be held. The imposition of the new tax must be on January 1 13 29 or July 1. However, for those counties that have voted on and 13 30 approved the tax under Code chapter 422E, the new tax cannot 13 31 take effect until the Code chapter 422E tax is repealed. 13 32 local option taxes are repealed December 31, 2013, and the 13 33 chapter is repealed.

13 34 Moneys collected from the tax shall be deposited into a 13 35 single statewide fund. School districts located in whole or 14 in part in a county that has imposed the new tax will receive 14 2 distributions from the single fund on a per pupil basis. 3 Moneys received are to be used for school infrastructure

4 purposes according to a plan adopted by the board of directors and approved by the voters.

14 6 If a plan is not adopted or approved, the moneys received rare to be used for property tax relief by reducing the debt service levies, then the physical plant and equipment levies, then the public educational and recreational levy, and finally the previously authorized schoolhouse levy.

14 11 The bill takes effect April 1, 2003.

14 12 LSB 2304XC 80

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