

Senate File 398 - Introduced

SENATE FILE _____
BY APPEL

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

A BILL FOR

1 An Act relating to the imposition of a local option sales and
2 services tax within the corporate boundaries of a city.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1928SS 83
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1 1 Section 1. Section 28A.17, unnumbered paragraph 1, Code
1 2 2009, is amended to read as follows:
1 3 If an authority is established as provided in section 28A.6
1 4 and after approval of a referendum by a simple majority of
1 5 votes cast in each metropolitan area in favor of the sales and
1 6 services tax, the governing board of a county in this state
1 7 within a metropolitan area which is part of the authority
1 8 shall impose, at the request of the authority, a local sales
1 9 and services tax at the rate of one-fourth of one percent on
1 10 the sales price taxed by this state under section 423.2,
1 11 within the metropolitan area located in this state. The
1 12 referendum shall be called by resolution of the board and
1 13 shall be held as provided in section 28A.6 to the extent
1 14 applicable. The ballot proposition shall contain a statement
1 15 as to the specific purpose or purposes for which the revenues
1 16 shall be expended and the date of expiration of the tax. The
1 17 local sales and services tax shall be imposed on the same
1 18 basis, with the same exceptions, and following the same
1 19 administrative procedures as provided ~~for a county~~ under
1 20 sections 423B.5 and 423B.6. The amount of the sale, for the
1 21 purposes of determining the amount of the local sales and
1 22 services tax under this section, does not include the amount
1 23 of any local sales and services tax imposed under sections
1 24 423B.5 and 423B.6.
1 25 Sec. 2. Section 423B.1, subsections 1 and 3, Code 2009,
1 26 are amended to read as follows:
1 27 1. A county or city may impose by ordinance ~~of the board~~
~~1 28 of supervisors~~ local option taxes authorized by this chapter,
1 29 subject to this section and subject to the exception provided
1 30 in subsection 2.
1 31 3. A local option tax shall be imposed only after an
1 32 election at which a majority of those voting on the question
1 33 favors imposition and shall then be imposed until repealed as
1 34 provided in subsection 6, paragraph "a". If the tax is a
1 35 local vehicle tax imposed by a county, it shall apply to all
2 1 incorporated and unincorporated areas of the county. If the
2 2 tax is a local sales and services tax imposed by a county, it
2 3 shall only apply to those incorporated areas and the
2 4 unincorporated area of that county in which a majority of
2 5 those voting in the area on the tax favors its imposition. If
2 6 the tax is a local sales and services tax imposed by a city
2 7 under subsection 4A, it shall only apply within the corporate
2 8 boundaries of the city. For purposes of the local sales and
2 9 services tax imposed by a county, all cities contiguous to
2 10 each other shall be treated as part of one incorporated area
2 11 and the tax would be imposed in each of those contiguous
2 12 cities only if the majority of those voting in the total area
2 13 covered by the contiguous cities favors its imposition. In
2 14 the case of a local sales and services tax submitted to the
2 15 registered voters of two or more contiguous counties as
2 16 provided in subsection 4, paragraph "c", all cities contiguous
2 17 to each other shall be treated as part of one incorporated
2 18 area, even if the corporate boundaries of one or more of the

2 19 cities include areas of more than one county, and the tax
2 20 shall be imposed in each of those contiguous cities only if a
2 21 majority of those voting on the tax in the total area covered
2 22 by the contiguous cities favored its imposition. For purposes
2 23 of the local sales and services tax, a city is not contiguous
2 24 to another city if the only road access between the two cities
2 25 is through another state.

2 26 Sec. 3. Section 423B.1, subsection 4, paragraph a, Code
2 27 2009, is amended to read as follows:

2 28 a. A county board of supervisors shall direct within
2 29 thirty days the county commissioner of elections to submit the
2 30 question of imposition of a local vehicle tax or a local sales
2 31 and services tax to the registered voters of the incorporated
2 32 and unincorporated areas of the county upon receipt of a
2 33 petition, requesting imposition of a local vehicle tax or a
2 34 local sales and services tax, signed by eligible electors of
2 35 the whole county equal in number to at least five percent of
3 1 the persons in the whole county who voted at the last
3 2 preceding ~~state~~ general election. In the case of a local
3 3 vehicle tax, the petition requesting imposition shall specify
3 4 the rate of tax and the classes, if any, that are to be
3 5 exempt. If more than one valid petition is received, the
3 6 earliest received petition shall be used.

3 7 Sec. 4. Section 423B.1, Code 2009, is amended by adding
3 8 the following new subsection:

3 9 NEW SUBSECTION. 4A. In lieu of a local sales and services
3 10 tax imposed by a county pursuant to subsection 4, a city may
3 11 impose a local option sales and services tax within the
3 12 corporate boundaries of the city pursuant to this subsection.

3 13 a. The city council shall direct the county commissioner
3 14 of elections to submit the question of the imposition of a
3 15 local sales and services tax within the corporate boundaries
3 16 of the city to the registered voters of the city upon receipt
3 17 of a petition, requesting imposition of a local sales and
3 18 services tax, signed by eligible electors of the city equal in
3 19 number to at least five percent of the persons in the city who
3 20 voted at the last preceding general election. The city
3 21 council shall notify the county commissioner of elections no
3 22 later than thirty days after receiving the petition. If more
3 23 than one valid petition is received, the earliest received
3 24 petition shall be used.

3 25 b. The city council may adopt a motion directing the
3 26 county commissioner of elections to submit the question of the
3 27 imposition of a local sales and services tax within the
3 28 corporate boundaries of the city to the registered voters of
3 29 the city. The manner provided under this paragraph for the
3 30 submission of the question of imposition of a local sales and
3 31 services tax is an alternative to the manner provided in
3 32 paragraph "a". A motion adopted by a city council under this
3 33 paragraph shall not be considered a motion for determining the
3 34 population threshold under subsection 4, paragraph "b".

3 35 Sec. 5. Section 423B.1, subsection 5, Code 2009, is
4 1 amended to read as follows:

4 2 5. The county commissioner of elections shall submit the
4 3 question of imposition of a local option tax at an election
4 4 held on a date specified in section 39.2, subsection 4,
4 5 paragraph "a". However, an election on the question of

4 6 imposition of a local sales and services tax by a city under

4 7 subsection 4A shall be held on a date specified in section

4 8 39.2, subsection 4, paragraph "b". The election shall not be

4 9 held sooner than sixty days after publication of notice of the
4 10 ballot proposition. The ballot proposition shall specify the
4 11 type and rate of tax and in the case of a vehicle tax the
4 12 classes that will be exempt and in the case of a local sales
4 13 and services tax the date it will be imposed which date shall
4 14 not be earlier than ninety days following the election. The
4 15 ballot proposition shall also specify the approximate amount
4 16 of local option tax revenues that will be used for property
4 17 tax relief and shall contain a statement as to the specific
4 18 purpose or purposes for which the revenues shall otherwise be
4 19 expended. If the county board of supervisors, for a

4 20 county-imposed local sales and services tax submitted pursuant
4 21 to subsection 4, or the city council, for a city-imposed local
4 22 sales and services tax submitted pursuant to subsection 4A,

4 23 decides under subsection 6 to specify a date on which the
4 24 local option sales and services tax shall automatically be
4 25 repealed, the date of the repeal shall also be specified on
4 26 the ballot. The rate of the vehicle tax shall be in
4 27 increments of one dollar per vehicle as set by the petition
4 28 seeking to impose the tax. The rate of a local sales and
4 29 services tax shall not be more than one percent as set by the

4 30 governing body. The state commissioner of elections shall
4 31 establish by rule the form for the ballot proposition which
4 32 form shall be uniform throughout the state.

4 33 Sec. 6. Section 423B.1, subsection 6, paragraph a, Code
4 34 2009, is amended to read as follows:

4 35 a. (1) If a majority of those voting on the question of
5 1 imposition of a local option tax favors imposition of a local
5 2 option tax, the governing body of that county or city, as
5 3 applicable, shall impose the tax at the rate specified for an
5 4 unlimited period. However, in the case of a local sales and
5 5 services tax imposed by a county, the county shall not impose
5 6 the tax in any incorporated area or the unincorporated area if
5 7 the majority of those voting on the tax in that area did not
5 8 favor its imposition. For purposes of the local sales and
5 9 services tax imposed by a county, all cities contiguous to
5 10 each other shall be treated as part of one incorporated area
5 11 and the tax shall be imposed in each of those contiguous
5 12 cities only if the majority of those voting on the tax in the
5 13 total area covered by the contiguous cities favored its
5 14 imposition. In the case of a local sales and services tax
5 15 submitted to the registered voters of two or more contiguous
5 16 counties as provided in subsection 4, paragraph "c", all
5 17 cities contiguous to each other shall be treated as part of
5 18 one incorporated area, even if the corporate boundaries of one
5 19 or more of the cities include areas of more than one county,
5 20 and the tax shall be imposed in each of those contiguous
5 21 cities only if a majority of those voting on the tax in the
5 22 total area covered by the contiguous cities favored its
5 23 imposition.

5 24 (2) The local option tax may be repealed or the rate
5 25 increased or decreased or the use thereof changed after an
5 26 election at which a majority of those voting on the question
5 27 of repeal or rate or use change favored the repeal or rate or
5 28 use change. The date on which the repeal, rate, or use change
5 29 is to take effect shall not be earlier than ninety days
5 30 following the election. The election at which the question of
5 31 repeal or rate or use change is offered shall be called and
5 32 held in the same manner and under the same conditions as
5 33 provided in subsections 4, 4A, and 5 for the election on the
5 34 imposition of the local option tax. However, in the case of a
5 35 local sales and services tax imposed by a county where the tax
6 1 has not been imposed countywide, the question of repeal or
6 2 imposition or rate or use change shall be voted on only by the
6 3 registered voters of the areas of the county where the tax has
6 4 been imposed or has not been imposed, as appropriate.
6 5 However, the governing body of the incorporated area or
6 6 unincorporated area where the local sales and services tax is
6 7 imposed by a county may, upon its own motion, request the
6 8 county commissioner of elections to hold an election in the
6 9 incorporated or unincorporated area, as appropriate, on the
6 10 question of the change in use of local sales and services tax
6 11 revenues. In the case of a local sales and services tax
6 12 imposed by a city pursuant to subsection 4A, the question of
6 13 repeal or imposition or rate or use change shall be voted on
6 14 only by the registered voters of the city where the tax is
6 15 imposed. The election may be held at any time but not sooner
6 16 than sixty days following publication of the ballot
6 17 proposition. If a majority of those voting in the
6 18 incorporated or unincorporated area on the change in use
6 19 favors the change, the governing body of that area shall
6 20 change the use to which the revenues shall be used. The
6 21 ballot proposition shall list the present use of the revenues,
6 22 the proposed use, and the date after which revenues received
6 23 will be used for the new use.

6 24 (3) (a) When submitting the question of the imposition of
6 25 a county-imposed local sales and services tax proposed under
6 26 subsection 4, the county board of supervisors may direct that
6 27 the question contain a provision for the repeal, without
6 28 election, of the local sales and services tax on a specific
6 29 date, which date shall be as provided in section 423B.6,
6 30 subsection 1.

6 31 (b) When submitting the question of the imposition of a
6 32 city-imposed local sales and services tax proposed under
6 33 subsection 4A, the city council may direct that the question
6 34 contain a provision for the repeal, without election, of the
6 35 local sales and services tax on a specific date, which date
7 1 shall be as provided in section 423B.6, subsection 1.

7 2 Sec. 7. Section 423B.1, subsection 7, paragraph b, Code
7 3 2009, is amended to read as follows:

7 4 b. Costs of local option tax elections proposed under
7 5 section 427B.1, subsection 4, shall be apportioned among the

7 6 jurisdictions within the county voting on the question at the
7 7 same election on a pro rata basis in proportion to the number
7 8 of registered voters in each taxing jurisdiction and the total
7 9 number of registered voters in all of the taxing
7 10 jurisdictions.

7 11 Sec. 8. Section 423B.1, subsection 9, Code 2009, is
7 12 amended to read as follows:

7 13 9. ~~a. In a county that has imposed a local option sales~~
7 14 ~~and services tax, the~~ The board of supervisors shall,
7 15 notwithstanding any contrary provision of this chapter, repeal
7 16 the ~~county=imposed~~ local option sales and services tax in the
7 17 unincorporated areas or in an incorporated city area in which
7 18 the tax has been imposed upon adoption of its own motion for
7 19 repeal in the unincorporated areas or upon receipt of a motion
7 20 adopted by the governing body of that incorporated city area
7 21 requesting repeal. The board of supervisors shall repeal the
7 22 ~~county=imposed~~ local option sales and services tax effective
7 23 on the later of the date of the adoption of the repeal motion
7 24 or the earliest date specified in section 423B.6, subsection
7 25 1. For purposes of this ~~subsection paragraph~~, incorporated
7 26 city area includes an incorporated city which is contiguous to
7 27 another incorporated city.

7 28 b. ~~In a city that has imposed a local option sales and~~
7 29 ~~services tax pursuant to subsection 4A, the city council~~
7 30 ~~shall, notwithstanding any contrary provision of this chapter,~~
7 31 ~~repeal the local option sales and services tax upon adoption~~
7 32 ~~of its own motion. The city council shall repeal the~~
7 33 ~~city=imposed local option sales and services tax effective on~~
7 34 ~~the later of the date of the adoption of the repeal motion or~~
7 35 ~~the earliest date specified in section 423B.6, subsection 1.~~

8 1 Sec. 9. Section 423B.5, Code 2009, is amended to read as
8 2 follows:

8 3 423B.5 LOCAL SALES AND SERVICES TAX.

8 4 1. A local sales and services tax at the rate of not more
8 5 than one percent may be imposed ~~by a county~~ on the sales price
8 6 taxed by the state under chapter 423, subchapter II. A local
8 7 sales and services tax shall be imposed on the same basis as
8 8 the state sales and services tax or in the case of the use of
8 9 natural gas, natural gas service, electricity, or electric
8 10 service on the same basis as the state use tax and shall not
8 11 be imposed on the sale of any property or on any service not
8 12 taxed by the state, except the tax shall not be imposed on the
8 13 sales price from the sale of motor fuel or special fuel as
8 14 defined in chapter 452A which is consumed for highway use or
8 15 in watercraft or aircraft if the fuel tax is paid on the
8 16 transaction and a refund has not or will not be allowed, on
8 17 the sales price from the sale of equipment by the state
8 18 department of transportation, or on the sales price from the
8 19 sale or use of natural gas, natural gas service, electricity,
8 20 or electric service in a city or county where the sales price
8 21 from the sale of natural gas or electric energy is subject to
8 22 a franchise fee or user fee during the period the franchise or
8 23 user fee is imposed. A ~~county=imposed~~ local sales and
8 24 services tax is applicable to transactions within those
8 25 incorporated and unincorporated areas of the county where it
8 26 is imposed and shall be collected by all persons required to
8 27 collect state sales taxes. ~~All~~ For purposes of a

8 28 ~~county=imposed local sales and services tax, cities contiguous~~
8 29 ~~to each other shall be treated as part of one incorporated~~
8 30 ~~area and the tax would be imposed in each of those contiguous~~
8 31 ~~cities only if the majority of those voting in the total area~~
8 32 ~~covered by the contiguous cities favors its imposition. A~~
8 33 ~~city=imposed local sales and services tax is applicable to~~
8 34 ~~transactions within corporate boundaries of the city and shall~~
8 35 ~~be collected by all persons required to collect state sales~~

9 1 ~~taxes.~~ In the case of a local sales and services tax
9 2 submitted to the registered voters of two or more contiguous
9 3 counties as provided in section 423B.1, subsection 4,
9 4 paragraph "c", all cities contiguous to each other shall be
9 5 treated as part of one incorporated area, even if the
9 6 corporate boundaries of one or more of the cities include
9 7 areas of more than one county, and the tax shall be imposed in
9 8 each of those contiguous cities only if a majority of those
9 9 voting on the tax in the total area covered by the contiguous
9 10 cities favored its imposition.

9 11 2. The amount of the sale, for purposes of determining the
9 12 amount of the local sales and services tax, does not include
9 13 the amount of any state sales tax.

9 14 3. A tax permit other than the state sales tax permit
9 15 required under section 423.36 shall not be required by local
9 16 authorities.

9 17 4. If a local sales and services tax is imposed by a
9 18 ~~county~~ pursuant to this chapter, a local excise tax at the
9 19 same rate shall be imposed by the ~~county~~ on the purchase price
9 20 of natural gas, natural gas service, electricity, or electric
9 21 service subject to tax under chapter 423, subchapter III, and
9 22 not exempted from tax by any provision of chapter 423,
9 23 subchapter III. The local excise tax is applicable only to
9 24 the use of natural gas, natural gas service, electricity, or
9 25 electric service within those ~~incorporated and unincorporated~~
9 26 ~~areas of the county~~ where it is imposed and, except as
9 27 otherwise provided in this chapter, shall be collected and
9 28 administered in the same manner as the local sales and
9 29 services tax. For purposes of this chapter, "local sales and
9 30 services tax" shall also include the local excise tax.

9 31 Sec. 10. Section 423B.6, subsection 1, paragraph b, Code
9 32 2009, is amended to read as follows:

9 33 b. A local sales and services tax shall be repealed only
9 34 on June 30 or December 31 but not sooner than ninety days
9 35 following the favorable election if one is held. However, a
10 1 local sales and services tax shall not be repealed before the
10 2 tax has been in effect for one year. At least forty days
10 3 before the imposition or repeal of the tax, ~~a county the~~
10 4 jurisdiction imposing the tax under section 423B.1, subsection
10 5 4, or the city imposing the tax under section 423B.1,
10 6 subsection 4A, shall provide notice of the action by certified
10 7 mail to the director of revenue.

10 8 Sec. 11. Section 423B.6, subsection 2, paragraph b, Code
10 9 2009, is amended to read as follows:

10 10 b. ~~The An ordinance of a county board of supervisors~~
10 11 imposing a local sales and services tax shall adopt by
10 12 reference the applicable provisions of the appropriate
10 13 sections of chapter 423. All powers and requirements of the
10 14 director to administer the state sales tax law and use tax law
10 15 are applicable to the administration of a local sales and
10 16 services tax law and the local excise tax, including but not
10 17 limited to the provisions of section 422.25, subsection 4,
10 18 sections 422.30, 422.67, and 422.68, section 422.69,
10 19 subsection 1, sections 422.70 through 422.75, section 423.14,
10 20 subsection 1 and subsection 2, paragraphs "b" through "e", and
10 21 sections 423.15, 423.23, 423.24, 423.25, 423.31 through
10 22 423.35, 423.37 through 423.42, 423.46, and 423.47. Local
10 23 officials shall confer with the director of revenue for
10 24 assistance in drafting the ordinance imposing a local sales
10 25 and services tax. A certified copy of the ordinance shall be
10 26 filed with the director as soon as possible after passage.

10 27 Sec. 12. Section 423B.7, subsection 1, paragraph a, Code
10 28 2009, is amended to read as follows:

10 29 a. Except as provided in paragraph "b", the director shall
10 30 credit the local sales and services tax receipts and interest
10 31 and penalties from a ~~county-imposed tax imposed by a county~~
10 32 under section 423B.1, subsection 4, to the county's account in
10 33 the local sales and services tax fund and from a ~~city-imposed~~
10 34 tax imposed by a city under section 423B.1, subsection 2, or
10 35 section 423B.1, subsection 4A, to the city's account in the
11 1 local sales and services tax fund. If the director is unable
11 2 to determine from which ~~county jurisdiction~~ any of the
11 3 receipts were collected, those receipts shall be allocated
11 4 among the possible ~~counties jurisdictions~~ based on allocation
11 5 rules adopted by the director.

11 6 Sec. 13. Section 423B.7, subsection 3, unnumbered
11 7 paragraph 1, Code 2009, is amended to read as follows:

11 8 ~~Seventy-five~~ For the purposes of a county-imposed tax under
11 9 section 423B.1, subsection 4, seventy-five percent of each
11 10 county's account shall be remitted on the basis of the
11 11 county's population residing in the unincorporated area where
11 12 the tax was imposed and those incorporated areas where the tax
11 13 was imposed as follows:

11 14 Sec. 14. Section 423B.7, subsection 4, unnumbered
11 15 paragraph 1, Code 2009, is amended to read as follows:

11 16 ~~Twenty-five~~ For the purposes of a county-imposed tax under
11 17 section 423B.1, subsection 4, twenty-five percent of each
11 18 county's account shall be remitted based on the sum of
11 19 property tax dollars levied by the board of supervisors if the
11 20 tax was imposed in the unincorporated areas and each city in
11 21 the county where the tax was imposed during the three-year
11 22 period beginning July 1, 1982, and ending June 30, 1985, as
11 23 follows:

11 24 Sec. 15. Section 423B.10, subsection 1, paragraph b, Code
11 25 2009, is amended to read as follows:

11 26 b. "Eligible city" means a city in which a local sales and
11 27 services tax imposed by the county applies, ~~or~~ a city

11 28 described in section 423B.1, subsection 2, paragraph "a", or a
11 29 city imposing a local sales and services tax under section
11 30 423B.1, subsection 4A, and in which an urban renewal area has
11 31 been designated.

11 32 EXPLANATION

11 33 Current Code chapter 423B requires the question of
11 34 imposition of a local sales and services tax to be on a county
11 35 basis, and the question of imposition must be brought forth by
12 1 petition or by action of the governing bodies in the county
12 2 sufficient to meet a specified population threshold. A
12 3 county-imposed local sales and services tax is imposed only in
12 4 those incorporated and unincorporated areas of the county that
12 5 approve the imposition of the tax at election.

12 6 This bill authorizes a city to, in lieu of a county-imposed
12 7 local sales and services tax, impose a local option sales and
12 8 services tax within the corporate boundaries of the city.
12 9 Under the bill, the question of the imposition of a local
12 10 sales and services tax by a city is submitted to the
12 11 registered voters of the city upon a motion by the city
12 12 council or upon receipt of a petition, requesting imposition
12 13 of a local sales and services tax, signed by eligible electors
12 14 of the city equal in number to at least 5 percent of the
12 15 persons in the city who voted at the last preceding general
12 16 election.

12 17 The bill provides that a local option sales and services
12 18 tax shall be imposed in a city only if a majority of the votes
12 19 cast in the city on the proposition favors the imposition of
12 20 the tax. Under the bill, a city-imposed local option sales
12 21 and services tax is implemented, collected, administered, and
12 22 repealed in a similar manner as a local sales and services tax
12 23 imposed on a county basis. Accordingly, the bill makes
12 24 corresponding changes to the appropriate provisions of Code
12 25 chapter 423B.
12 26 LSB 1928SS 83
12 27 md/sc/5