

House File 505 - Introduced

HOUSE FILE 505
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HF 60)

A BILL FOR

1 An Act relating to the approval and imposition of local option
2 taxes and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 423B.1, subsection 1, Code 2013, is
2 amended to read as follows:

3 1. A city or county may impose by ordinance of the governing
4 body of the city or the board of supervisors local option taxes
5 authorized by this chapter, subject to this section ~~and subject~~
6 ~~to the exception provided in subsection 2.~~

7 Sec. 2. Section 423B.1, subsection 2, Code 2013, is amended
8 by striking the subsection.

9 Sec. 3. Section 423B.1, subsection 3, Code 2013, is amended
10 to read as follows:

11 3. A local option tax shall be imposed only after an
12 election at which a majority of those voting on the question
13 favors imposition and shall then be imposed until repealed
14 as provided in subsection 6, paragraph "a". If the tax is
15 a local vehicle tax imposed by a county, it shall apply to
16 all incorporated and unincorporated areas of the county.
17 If the tax is a local sales and services tax imposed by a
18 county, it shall only apply to ~~those incorporated areas and~~
19 ~~the unincorporated area of that county in which~~ if a majority
20 of those voting in the unincorporated area on the tax favors
21 its imposition and if the tax is a local sales and services
22 tax imposed by a city it shall only apply to the city if a
23 majority of those voting in the city on the tax favors its
24 imposition. ~~For purposes of the local sales and services tax,~~
25 ~~all cities contiguous to each other shall be treated as part of~~
26 ~~one incorporated area and the tax would be imposed in each of~~
27 ~~those contiguous cities only if the majority of those voting~~
28 ~~in the total area covered by the contiguous cities favors its~~
29 ~~imposition. In the case of a local sales and services tax~~
30 ~~submitted to the registered voters of two or more contiguous~~
31 ~~counties as provided in subsection 4, paragraph "c", all cities~~
32 ~~contiguous to each other shall be treated as part of one~~
33 ~~incorporated area, even if the corporate boundaries of one or~~
34 ~~more of the cities include areas of more than one county, and~~
35 ~~the tax shall be imposed in each of those contiguous cities~~

1 ~~only if a majority of those voting on the tax in the total area~~
2 ~~covered by the contiguous cities favored its imposition. For~~
3 ~~purposes of the local sales and services tax, a city is not~~
4 ~~contiguous to another city if the only road access between the~~
5 ~~two cities is through another state.~~

6 Sec. 4. Section 423B.1, subsection 4, paragraphs a and b,
7 Code 2013, are amended to read as follows:

8 a. A county board of supervisors shall direct within
9 thirty days the county commissioner of elections to submit the
10 question of imposition of a local vehicle tax ~~or a local sales~~
11 ~~and services tax~~ to the registered voters of the incorporated
12 and unincorporated areas of the county upon receipt by the
13 board of supervisors of a petition, requesting imposition of
14 a local vehicle tax ~~or a local sales and services tax~~, signed
15 by eligible electors of the ~~whole~~ county equal in number to
16 five percent of the persons in the ~~whole~~ county who voted at
17 the last preceding ~~state~~ general election. A county board
18 of supervisors shall direct within thirty days the county
19 commissioner of elections to submit the question of imposition
20 of a local sales and services tax to the registered voters
21 of a city or of the unincorporated area of the county upon
22 receipt by the board of supervisors of a petition, requesting
23 imposition of a local sales and services tax, signed by
24 eligible electors of the city or of the unincorporated area of
25 the county, as applicable, equal in number to five percent of
26 the persons in the applicable city or unincorporated area of
27 the county who voted at the last preceding general election.
28 In the case of a local vehicle tax, the petition requesting
29 imposition shall specify the rate of tax and the classes, if
30 any, that are to be exempt. If more than one valid petition is
31 received, the earliest received petition shall be used.

32 b. The question of the imposition of a local sales and
33 services tax shall be submitted to the registered voters of the
34 ~~incorporated and~~ city or of the unincorporated areas area of
35 the county upon receipt by the county commissioner of elections

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

22 Sec. 5. Section 423B.1, subsection 4, paragraph c, Code
 23 2013, is amended by striking the paragraph and inserting in
 24 lieu thereof the following:

25 *c.* A city is considered to be located in a county if over
 26 half of the population of the city is located in that county.

27 Sec. 6. Section 423B.1, subsection 5, Code 2013, is amended
 28 to read as follows:

29 5. The county commissioner of elections shall submit the
 30 question of imposition of a local option tax at an election
 31 held on a date specified in section 39.2, subsection 4,
 32 paragraph "a" or "b", as applicable. The election shall not
 33 be held sooner than sixty days after publication of notice of
 34 the ballot proposition. The ballot proposition shall specify
 35 the type and rate of tax and, in the case of a vehicle tax, the

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

19 Sec. 7. Section 423B.1, subsection 6, paragraph a, Code
 20 2013, is amended to read as follows:

21 a. (1) If a majority of those voting on the question
 22 of imposition of a local option tax favors imposition of a
 23 local option tax, the governing body of that county shall
 24 impose the tax at the rate specified for an unlimited period.
 25 ~~However, in the case of a local sales and services tax, the~~
 26 ~~county shall not impose the tax in any incorporated area or~~
 27 ~~the unincorporated area if the majority of those voting on the~~
 28 ~~tax in that area did not favor its imposition. For purposes~~
 29 ~~of the local sales and services tax, all cities contiguous to~~
 30 ~~each other shall be treated as part of one incorporated area~~
 31 ~~and the tax shall be imposed in each of those contiguous cities~~
 32 ~~only if the majority of those voting on the tax in the total~~
 33 ~~area covered by the contiguous cities favored its imposition.~~
 34 ~~In the case of a local sales and services tax submitted to~~
 35 ~~the registered voters of two or more contiguous counties as~~

1 ~~provided in subsection 4, paragraph "c", all cities contiguous~~
 2 ~~to each other shall be treated as part of one incorporated~~
 3 ~~area, even if the corporate boundaries of one or more of the~~
 4 ~~cities include areas of more than one county, and the tax~~
 5 ~~shall be imposed in each of those contiguous cities only if a~~
 6 ~~majority of those voting on the tax in the total area covered~~
 7 ~~by the contiguous cities favored its imposition. If a majority~~
 8 ~~of those voting on the question of imposition of a local~~
 9 ~~option sales and services tax favors imposition of the tax,~~
 10 ~~the governing body of the city or county, as applicable, shall~~
 11 ~~impose by ordinance the tax at the rate of one percent.~~

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

1 proposition. If a majority of those voting in the ~~incorporated~~
2 city or unincorporated area on the change in use favors the
3 change, the governing body of that city or area shall change
4 the use to which the revenues shall be used. The ballot
5 proposition shall list the present use of the revenues, the
6 proposed use, and the date after which revenues received will
7 be used for the new use.

8 (3) When submitting the question of the imposition of a
9 local sales and services tax, the county board of supervisors
10 or the governing body of the city may direct that the question
11 contain a provision for the repeal, without election, of the
12 local sales and services tax on a specific date, which date
13 shall be as provided in section 423B.6, subsection 1.

14 Sec. 8. Section 423B.1, Code 2013, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 6A. If a proposition for the imposition
17 of a local sales and services tax submitted to the voters
18 of a city or unincorporated area of a county under this
19 section fails to gain approval, the proposition shall not be
20 resubmitted to the voters of that jurisdiction in substantially
21 the same form for a period of three years following the date
22 of the election and may only be resubmitted to the voters on a
23 date specified in section 39.2, subsection 4, paragraph "a" or
24 "b", as applicable.

25 Sec. 9. Section 423B.1, subsection 7, paragraph b, Code
26 2013, is amended to read as follows:

27 *b.* Costs of local option tax elections shall be apportioned
28 among jurisdictions within the county voting on the question
29 at the same election on a pro rata basis in proportion to the
30 number of registered voters in each taxing jurisdiction voting
31 on the question and the total number of registered voters in
32 all of the taxing jurisdictions voting on the question.

33 Sec. 10. Section 423B.1, subsections 8 through 10, Code
34 2013, are amended to read as follows:

35 8. Local option taxes authorized to be imposed as provided

1 in this chapter are a local sales and services tax and a local
2 vehicle tax. The rate of the tax shall be in increments of one
3 dollar per vehicle for a vehicle tax as set on the petition
4 seeking to impose the vehicle tax. The rate of a local sales
5 and services tax shall ~~not be more than one percent as set by~~
6 ~~the governing body.~~

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

22 b. In a city that has imposed a local sales and services
23 tax, the governing body of the city shall, notwithstanding any
24 contrary provision of this chapter, repeal the local sales
25 and services tax in the city upon adoption of its own motion
26 for repeal. The governing body of the city shall repeal the
27 local sales and services tax effective on the later of the
28 date of the adoption of the repeal motion or the earliest date
29 specified in section 423B.6, subsection 1.

30 10. Notwithstanding subsection 9 or any other contrary
31 provision of this chapter, a local option sales and services
32 tax shall not be repealed ~~or reduced in rate~~ if obligations are
33 outstanding which are payable as provided in section 423B.9,
34 unless funds sufficient to pay the principal, interest, and
35 premium, if any, on the outstanding obligations at and prior

1 to maturity have been properly set aside and pledged for that
2 purpose.

3 Sec. 11. Section 423B.5, unnumbered paragraph 1, Code 2013,
4 is amended to read as follows:

5 A local sales and services tax at the rate of ~~not more than~~
6 one percent may be imposed by a city or county on the sales
7 price taxed by the state under chapter 423, subchapter II. A
8 local sales and services tax shall be imposed on the same basis
9 as the state sales and services tax or in the case of the use
10 of natural gas, natural gas service, electricity, or electric
11 service on the same basis as the state use tax and shall not
12 be imposed on the sale of any property or on any service not
13 taxed by the state, except the tax shall not be imposed on
14 the sales price from the sale of motor fuel or special fuel
15 as defined in chapter 452A which is consumed for highway use
16 or in watercraft or aircraft if the fuel tax is paid on the
17 transaction and a refund has not or will not be allowed, on the
18 sales price from the sale of equipment by the state department
19 of transportation, or on the sales price from the sale or use
20 of natural gas, natural gas service, electricity, or electric
21 service in a city or county where the sales price from the sale
22 of natural gas or electric energy is subject to a franchise
23 fee or user fee during the period the franchise or user fee
24 is imposed. A local sales and services tax is applicable
25 to transactions within ~~those incorporated and~~ the city or
26 ~~unincorporated areas~~ area of the county where it is imposed and
27 shall be collected by all persons required to collect state
28 sales taxes. ~~All cities contiguous to each other shall be~~
29 ~~treated as part of one incorporated area and the tax would be~~
30 ~~imposed in each of those contiguous cities only if the majority~~
31 ~~of those voting in the total area covered by the contiguous~~
32 ~~cities favors its imposition. In the case of a local sales and~~
33 ~~services tax submitted to the registered voters of two or more~~
34 ~~contiguous counties as provided in section 423B.1, subsection~~
35 ~~4, paragraph "c", all cities contiguous to each other shall be~~

~~1 treated as part of one incorporated area, even if the corporate
2 boundaries of one or more of the cities include areas of more
3 than one county, and the tax shall be imposed in each of those
4 contiguous cities only if a majority of those voting on the tax
5 in the total area covered by the contiguous cities favored its
6 imposition.~~

7 Sec. 12. Section 423B.5, unnumbered paragraph 4, Code 2013,
8 is amended to read as follows:

9 If a local sales and services tax is imposed by a city or
10 county pursuant to this chapter, a local excise tax at the same
11 rate shall be imposed by the city or county on the purchase
12 price of natural gas, natural gas service, electricity, or
13 electric service subject to tax under chapter 423, subchapter
14 III, and not exempted from tax by any provision of chapter 423,
15 subchapter III. The local excise tax is applicable only to
16 the use of natural gas, natural gas service, electricity, or
17 electric service within those incorporated and unincorporated
18 areas of the county where it is imposed and, except as
19 otherwise provided in this chapter, shall be collected and
20 administered in the same manner as the local sales and services
21 tax. For purposes of this chapter, "*local sales and services*
22 *tax*" shall also include the local excise tax.

23 Sec. 13. Section 423B.6, subsection 1, paragraphs b and c,
24 Code 2013, are amended to read as follows:

25 *b.* A local sales and services tax shall be repealed only
26 on June 30 or December 31 but not sooner than ninety days
27 following the favorable election if one is held. However, a
28 local sales and services tax shall not be repealed before the
29 tax has been in effect for one year. At least forty days before
30 the imposition or repeal of the tax, a the city or county, as
31 applicable, shall provide notice of the action by certified
32 mail to the director of revenue.

33 *c.* The imposition of ~~or a rate change for~~ a local sales and
34 services tax shall not be applied to purchases from a printed
35 catalog wherein a purchaser computes the local tax based on

1 rates published in the catalog unless a minimum of one hundred
2 twenty days' notice of the imposition ~~or rate change~~ has been
3 given to the seller from the catalog and the first day of a
4 calendar quarter has occurred on or after the one hundred
5 twentieth day.

6 Sec. 14. Section 423B.6, subsection 2, paragraph b, Code
7 2013, is amended to read as follows:

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

25 Sec. 15. Section 423B.6, subsection 3, paragraph b, Code
26 2013, is amended to read as follows:

27 *b.* All local tax moneys and interest and penalties received
28 or refunded one hundred eighty days or more after the date on
29 which the city or county repeals its local sales and services
30 tax shall be deposited in or withdrawn from the state general
31 fund.

32 Sec. 16. Section 423B.7, subsection 1, paragraph a, Code
33 2013, is amended to read as follows:

34 *a.* Except as provided in paragraph "b", the director shall
35 credit the local sales and services tax receipts and interest

1 and penalties from a county-imposed tax or a city-imposed
2 tax to the county's account in the local sales and services
3 tax fund ~~and from a city-imposed tax under section 423B.1,~~
4 ~~subsection 2, to the city's account in the local sales~~
5 ~~and services tax fund~~ for the county in which the tax was
6 collected. If the director is unable to determine from which
7 county any of the receipts were collected, those receipts shall
8 be allocated among the possible counties based on allocation
9 rules adopted by the director.

10 Sec. 17. Section 423B.7, subsection 5, Code 2013, is amended
11 by striking the subsection.

12 Sec. 18. Section 423B.8, subsection 1, paragraph a, Code
13 2013, is amended to read as follows:

14 a. The goods, wares, or merchandise are incorporated into
15 an improvement to real estate in fulfillment of a written
16 contract fully executed prior to the date of the imposition ~~or~~
17 ~~increase in rate~~ of a local sales and services tax under this
18 chapter. The refund shall not apply to equipment transferred
19 in fulfillment of a mixed construction contract.

20 Sec. 19. Section 423B.10, subsection 1, paragraph b, Code
21 2013, is amended to read as follows:

22 b. "*Eligible city*" means a city in which a local sales and
23 services tax imposed by the city or county applies or a city
24 described in section 423B.1, subsection 2, paragraph "a", Code
25 2013, and in which an urban renewal area has been designated.

26 Sec. 20. EFFECT OF ACT — CURRENT LOCAL OPTION TAXES. This
27 Act shall not affect the imposition and collection of a local
28 option tax imposed, or that will take effect, as the result of
29 a petition received or a motion approved under chapter 423B
30 prior to July 1, 2013.

31 Sec. 21. APPLICABILITY.

32 1. This Act applies to petitions received pursuant to
33 section 423B.1, subsection 4, paragraph "a", as amended in this
34 Act, on or after July 1, 2013.

35 2. This Act applies to motions adopted pursuant to section

1 423B.1, subsection 4, paragraph "b", as amended in this Act, on
2 or after July 1, 2013.

3

EXPLANATION

4 This bill relates to the approval and imposition of local
5 option taxes.

6 Current Code chapter 423B authorizes the imposition of local
7 option taxes, including a local option sales and services tax.
8 Currently, such a proposed tax is only presented to the voters
9 of a whole county upon the filing of a petition signed by
10 eligible electors of the county equal in number to five percent
11 of the persons in the county who voted at the last preceding
12 general election or upon receipt by the county commissioner of
13 elections of motions requesting such submission, adopted by the
14 governing bodies of the cities located within the county or the
15 governing body of the county for the unincorporated area of the
16 county, representing at least one-half of the population of the
17 county.

18 The bill amends the methods of seeking presentment of
19 the local option sales and services tax to the voters by
20 allowing the eligible electors of individual cities and the
21 unincorporated area of a county to file a petition for an
22 election to be held in the petitioning jurisdiction if such
23 petition is signed by eligible electors of the city or the
24 unincorporated area of the county, as applicable, equal in
25 number to five percent of the persons in the applicable city
26 or unincorporated area of the county who voted at the last
27 preceding general election.

28 The bill also removes the requirement that in order to have
29 the local sales and services tax presented to the voters,
30 motions must be approved by cities or the county for the
31 unincorporated area, representing at least one-half of the
32 county's population. Instead, the bill allows individual
33 cities or the county for the unincorporated area to approve a
34 motion for an election on the local sales and services tax to
35 be held in only that jurisdiction.

1 The bill consequently removes the requirements related to
2 approval of a ballot question by cities that are contiguous to
3 each other and special provisions related to the approval and
4 imposition of a local sales and services tax in a city that is
5 located in more than one county.

6 The bill provides that if a proposition for the imposition
7 of a local sales and services tax submitted to the voters of
8 a city or the unincorporated area of a county fails to gain
9 approval, it shall not be resubmitted to the voters of that
10 jurisdiction in substantially the same form for a period of
11 three years following the election and may only be resubmitted
12 on a day specified in statute for special elections of a city
13 or county.

14 Current Code chapter 423B authorizes the imposition of a
15 local sales and services tax at a rate of not more than 1
16 percent. The bill requires a local sales and services tax, if
17 imposed, to be 1 percent.

18 The bill does not affect the imposition and collection of a
19 local tax imposed, or that will take effect, as the result of a
20 petition received or a motion approved before July 1, 2013.

21 The bill applies to petitions and motions for the imposition
22 of local option taxes received or adopted under Code chapter
23 423B, as amended in the bill, on or after July 1, 2013.