

**House File 213 - Introduced**

HOUSE FILE 213

BY LOHSE

**A BILL FOR**

1 An Act relating to local government revenues by authorizing  
2 cities or counties to impose a local entertainment  
3 surcharge, and making an appropriation.

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

1 Section 1. NEW SECTION. 423H.1 Definitions.

2 As used in this chapter, unless the context otherwise  
3 requires:

4 1. "*Alcoholic beverage*" means the same as defined in section  
5 123.3.

6 2. "*Cultural or entertainment establishment*" means a sporting  
7 or concert event venue, performing arts theater, movie theater,  
8 museum, convention hall, or enclosed shopping mall.

9 3. "*Department*" means the department of revenue.

10 4. "*Director*" means the director of the department of  
11 revenue.

12 5. "*District*" means either of the following:

13 a. An area within a municipality that is established as a  
14 local entertainment district pursuant to section 423H.2.

15 b. An area within two or more municipalities pursuant to  
16 an agreement under chapter 28E that is established as a local  
17 entertainment district pursuant to section 423H.2.

18 6. "*Entertainment tickets*" means all tickets or admissions  
19 subject to taxation pursuant to section 423.2, subsection 3.

20 7. "*Food*" means the same as defined in section 137F.1.

21 8. "*Food establishment*" means a "*food establishment*" licensed  
22 pursuant to chapter 137F, at which food is served or sold at  
23 retail. "*Food establishment*" also includes a "*temporary food*  
24 *establishment*" defined in chapter 137F.1.

25 9. "*Governing body*" means the county board of supervisors,  
26 city council, or other body in which the legislative powers of  
27 the municipality are vested.

28 10. "*Licensed premises*" means the same as defined in section  
29 123.3.

30 11. "*Liquor establishment*" means a licensed premises in or  
31 at which alcoholic beverages are sold at retail.

32 12. "*Lodging*" means the same as defined in section 423A.2.  
33 "*Lodging*" does not include lodging exempted from tax pursuant  
34 to section 423A.5.

35 13. "*Municipality*" means any of the following:

1     *a.* A county.

2     *b.* An incorporated city.

3     *c.* A joint board or other legal entity established or  
4 designated in an agreement between two or more contiguous  
5 municipalities identified in paragraph "a" or "b" pursuant to  
6 chapter 28E.

7     14. "*Retail sale*" means the same as defined in section  
8 423.1.

9     15. "*Surcharge*" means a local entertainment surcharge  
10 imposed pursuant to this chapter.

11     Sec. 2. NEW SECTION. 423H.2 Local entertainment district  
12 establishment — approval.

13     A municipality may establish a district for purposes of  
14 imposing a surcharge. To be established as a district, a  
15 proposed district shall meet the following requirements:

16     1. The combined attendance at cultural or entertainment  
17 establishments, food establishments, and liquor establishments  
18 within the proposed district exceeded five hundred thousand  
19 persons during the previous calendar year, or the attendance  
20 forecast at such establishments is reasonably expected to  
21 exceed five hundred thousand persons per calendar year within  
22 two years of the establishment of the district.

23     2. The proposed district consists of contiguous parcels and  
24 does not exceed seventy-five acres in total.

25     3. For a municipality that is a city, the proposed district  
26 does not include the entire incorporated area of the city.

27     4. The proposed district is not located in whole or in part  
28 within another district established under this chapter.

29     Sec. 3. NEW SECTION. 423H.3 Local entertainment surcharge  
30 — approval.

31     1. Prior to adopting the ordinance or resolution under  
32 subsection 2, a proposed district plan shall be developed by  
33 the governing body of the municipality. The proposed district  
34 plan shall state the governing body's intent to establish a  
35 district and a legal description of the real estate forming the

1 boundaries of the area to be included in the proposed district  
2 along with a map depicting the existing parcels of real estate  
3 located in the proposed district.

4 2. After developing a proposed district plan and stating  
5 the governing body's intent to establish such a district under  
6 subsection 1, the governing body of a municipality may impose a  
7 surcharge pursuant to this chapter by adopting an ordinance, or  
8 in the case of a municipality under section 423H.1, subsection  
9 13, paragraph "c", a resolution. The surcharge shall be imposed  
10 at a rate not to exceed three percent upon the following within  
11 the district:

12 a. The retail sales price of food or alcoholic beverages  
13 sold at a cultural or entertainment establishment, food  
14 establishment, or liquor establishment.

15 b. The sales price of all sales of entertainment tickets  
16 sold at a cultural or entertainment establishment.

17 c. The sales price for the renting of any lodging.

18 3. The surcharge shall be in addition to the state sales  
19 tax imposed pursuant to chapter 423, subchapter II, the  
20 state-imposed and locally imposed hotel and motel tax pursuant  
21 to chapter 423A, and the local sales and services tax imposed  
22 pursuant to chapter 423B.

23 4. a. Within ten days of the passage of an ordinance  
24 or resolution imposing a surcharge, the county auditor of  
25 the county with the largest parcel in the district shall  
26 give written notice to the director by sending a copy of the  
27 district plan to the director.

28 b. A surcharge shall be imposed either January 1 or July  
29 1 following the notification of the director but not sooner  
30 than ninety days following the passage of the ordinance or  
31 resolution imposing the surcharge and not sooner than sixty  
32 days following notice to sellers, as defined in section 423.1.

33 c. (1) A surcharge shall be repealed only on June 30 or  
34 December 31 but not sooner than ninety days following repeal of  
35 the ordinance or resolution. At least forty days before the

1 repeal of the surcharge, a municipality shall provide notice of  
2 the action by certified mail to the director of revenue.

3 (2) The terms of any chapter 28E agreement shall govern the  
4 repeal of the surcharge in the case of a municipality under  
5 section 423H.1, subsection 13, paragraph "c".

6 5. a. (1) If within thirty days after adoption of the  
7 ordinance that imposes a surcharge, or if after the ordinance  
8 has been in effect for one year, the board of supervisors of a  
9 municipality receives a valid petition as provided in section  
10 331.306 requesting that the question of whether to repeal  
11 the ordinance be submitted to the registered voters of the  
12 unincorporated area of the county, the board shall direct the  
13 county commissioner of elections to submit to the voters at an  
14 election held on a date specified in section 39.2, subsection  
15 4, paragraph "a", the question of whether the ordinance that  
16 imposes the surcharge shall be repealed.

17 (2) If within thirty days after adoption of the ordinance  
18 that imposes a surcharge, or if after the ordinance has been  
19 in effect for one year, the city council of a municipality  
20 receives a valid petition as provided in section 362.4  
21 requesting that the question of whether to repeal the ordinance  
22 be submitted to the registered voters of the city, the city  
23 council shall direct the county commissioner of elections to  
24 submit to the voters at an election held on a date specified  
25 in section 39.2, subsection 4, paragraph "b", the question  
26 of whether the ordinance that imposes the surcharge shall be  
27 repealed.

28 (3) For a municipality under section 423H.1, subsection 13,  
29 paragraph "c", the terms of any chapter 28E agreement shall  
30 govern the repeal of the surcharge, but shall, at a minimum,  
31 allow for a petition under section 331.306 or 362.4 requesting  
32 that a question to repeal the resolution be submitted to the  
33 voters after the resolution has been in effect for one year.

34 b. If a majority of the total votes cast for and against the  
35 proposition favors repeal of the surcharge, or in the case of

1 a municipality under section 423H.1, subsection 13, paragraph  
2 "c", a majority of at least one of the municipalities favors  
3 repeal, the ordinance or resolution shall be repealed, and  
4 collection of the surcharge shall terminate on either June 30  
5 or December 31 following the election, whichever is sooner.

6 Sec. 4. NEW SECTION. **423H.4 Administration.**

7 1. The director shall administer the surcharge imposed  
8 pursuant to this chapter as nearly as possible in conjunction  
9 with the administration of state sales tax laws. The director  
10 shall provide appropriate forms, or provide space on the  
11 regular state tax forms, for reporting surcharge liability.

12 2. a. Section 422.25, subsection 4, sections 422.30,  
13 422.67, and 422.68, section 422.69, subsection 1, sections  
14 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14,  
15 subsection 1, and sections 423.23, 423.24, 423.25, 423.31,  
16 423.33, 423.35, 423.37 through 423.42, and 423.47, consistent  
17 with the provisions of this chapter, apply with respect to the  
18 surcharge authorized under this chapter, in the same manner and  
19 with the same effect as retail sales taxes within the meaning  
20 of those statutes. The director may require all persons  
21 who are engaged in the business of deriving any sales price  
22 subject to a surcharge under this chapter to register with  
23 the department. All surcharges collected under this chapter  
24 are deemed to be held in trust for the state of Iowa and the  
25 local jurisdictions imposing the surcharges. Local officials  
26 shall confer with the director of revenue for assistance in  
27 drafting the ordinance or resolution imposing the surcharge. A  
28 certified copy of the ordinance or resolution shall be filed  
29 with the director as soon as possible after passage.

30 b. Frequency of deposits and quarterly reports of the  
31 surcharge with the department of revenue are governed by the  
32 provisions in section 423.31. Local surcharge collections  
33 shall not be included in computation of the total tax to  
34 determine frequency of filing under section 423.31.

35 c. The director shall apply a boundary change of a city

1 imposing or collecting the surcharge to the imposition or  
2 collection of that surcharge only on the first day of a  
3 calendar quarter which occurs sixty days or more after the  
4 director has given notice of the boundary change to sellers.

5 3. *a.* The director, in consultation with local officials,  
6 shall collect and account for the surcharge. The director  
7 shall certify each quarter the amount of the surcharge  
8 receipts and any interest and penalties to be credited to  
9 the municipality account in the state surcharge revenue fund  
10 established in section 423H.5. Local authorities shall not  
11 require any permit not required by the director of revenue.

12 *b.* All surcharge revenues and interest and penalties  
13 received or refunded one hundred eighty days or more after the  
14 date on which the municipality repeals the surcharge, shall be  
15 deposited in or withdrawn from the general fund of the state.

16 4. Each municipality that has established a district  
17 under this chapter shall assist the department in identifying  
18 new establishments required to impose the surcharge in the  
19 district. This process shall be ongoing until the surcharge  
20 is repealed.

21 **Sec. 5. NEW SECTION. 423H.5 State surcharge revenue fund.**

22 1. A state surcharge revenue fund is established in the  
23 state treasury under the control of the department consisting  
24 of the surcharge revenues collected within each district and  
25 deposited in the fund pursuant to section 423H.4. Revenues  
26 deposited in the fund are appropriated to the department for  
27 the purposes of this section.

28 2. A district account is created within the fund for each  
29 municipality creating a district under this chapter.

30 3. The department shall deposit the revenues described in  
31 subsection 1 that were collected in a quarter beginning on or  
32 after the district's commencement date into the appropriate  
33 district account in the fund.

34 4. All revenues in each district account within the  
35 fund shall be remitted quarterly by the department to the

1 municipality that established the district for deposit in  
2 the general fund of the municipality. In the case of a  
3 municipality described in section 423H.1, subsection 13,  
4 paragraph "c", revenues shall be remitted to the municipalities  
5 that are parties to the chapter 28E agreement in such  
6 proportions as described in the chapter 28E agreement.

7 **Sec. 6. NEW SECTION. 423H.6 Payment to municipality — use**  
8 **of revenues.**

9 1. Upon the remittance of the revenues from the state  
10 revenue surcharge fund to the municipality under section  
11 423H.5, subsection 4, the revenues shall be deposited into the  
12 general fund of the municipality.

13 2. Surcharge revenues deposited into the general fund of the  
14 municipality shall be used as follows, as applicable:

15 a. For deposit into the debt service fund in section 331.430  
16 or 384.4.

17 b. For deposit into the emergency services fund in section  
18 331.424C or emergency fund in section 384.8.

19 c. For deposit into the capital improvements fund in section  
20 384.7.

21 d. For the purposes described in section 384.3A, subsection  
22 3, paragraph "b", "c", "e", "f", or "g".

23 **Sec. 7. NEW SECTION. 423H.7 Rules.**

24 The department shall adopt rules pursuant to chapter 17A to  
25 administer this chapter.

26 **EXPLANATION**

27 The inclusion of this explanation does not constitute agreement with  
28 the explanation's substance by the members of the general assembly.

29 This bill relates to local government revenues by  
30 authorizing cities or counties to impose a local entertainment  
31 surcharge, and makes an appropriation.

32 The bill authorizes a city, county, or an area within two or  
33 more municipalities pursuant to a Code chapter 28E agreement  
34 (municipality) to establish a local entertainment district  
35 (district) by ordinance or, in the case of a Code chapter 28E



1 agreement by resolution, for the purpose of imposing a local  
2 entertainment surcharge (surcharge). Under the bill, to be  
3 established as a district, the proposed area shall meet all  
4 of the following requirements: the combined attendance at  
5 cultural or entertainment establishments, food establishments,  
6 and liquor establishments within the proposed district exceeded  
7 500,000 persons during the previous calendar year, or the  
8 expected attendance forecast at such establishments is expected  
9 to exceed 500,000 persons per calendar year within two years;  
10 the proposed area consists of contiguous parcels and does not  
11 exceed 75 acres; the proposed area does not include the entire  
12 incorporated area of the city; and the proposed area is not  
13 located in whole or in part within another district.

14 The bill defines "cultural or entertainment establishment"  
15 to mean a sporting or concert event venue, performing arts  
16 theater, movie theater, museum, convention hall, or enclosed  
17 shopping mall. The bill defines "food establishment" to mean a  
18 "food establishment" licensed pursuant to Code chapter 137F, at  
19 which food is served or sold at retail. "Food establishment"  
20 also includes a "temporary food establishment" defined in Code  
21 section 137F.1. The bill defines "liquor establishment" to  
22 mean a licensed premises in or at which alcoholic beverages are  
23 sold at retail.

24 If the governing body of a municipality imposes a surcharge  
25 pursuant to the bill, the surcharge shall be at a rate not to  
26 exceed 3 percent, which shall be imposed upon the following  
27 within the district: the retail sales price of food or  
28 alcoholic beverages sold at a cultural or entertainment  
29 establishment, food establishment, or liquor establishment; the  
30 sales price of all sales of entertainment tickets sold at a  
31 cultural or entertainment establishment; or the sales price for  
32 the renting of any lodging.

33 The bill defines "entertainment tickets" to mean all tickets  
34 or admissions subject to taxation pursuant to Code section  
35 423.2(3). The bill defines "lodging" to mean the same as

1 defined in Code section 432A.2. However, "lodging" does not  
2 include lodging exempted from tax pursuant to Code section  
3 423A.5.

4 The bill specifies that the surcharge shall be in addition  
5 to the state sales tax imposed pursuant to Code chapter 423,  
6 subchapter II, the state-imposed and locally imposed hotel and  
7 motel tax pursuant to Code chapter 423A, or the local sales and  
8 services tax imposed pursuant to Code chapter 423B.

9 The bill establishes a process to adopt or repeal the  
10 surcharge. A surcharge shall be imposed either on January 1  
11 or July 1 following notification of the director of revenue  
12 but not sooner than 90 days following the passage of the  
13 ordinance or resolution imposing the rate of the surcharge and  
14 not sooner than 60 days following notice to the sellers in the  
15 local entertainment district. For a surcharge adopted by a  
16 resolution, the Code chapter 28E agreement shall govern the  
17 repeal of the surcharge. A surcharge adopted by resolution  
18 and governed by a Code chapter 28E agreement may be repealed  
19 upon the majority vote of persons in one of the municipalities  
20 after the resolution has been in effect for one year. For a  
21 surcharge adopted by ordinance, a surcharge shall be repealed  
22 only on June 30 or December 31 but no sooner than 90 days  
23 following the repeal of the ordinance. A surcharge adopted by  
24 ordinance may also be repealed by petition upon the majority  
25 vote of persons in the municipality beginning 30 days after  
26 adoption of the ordinance.

27 The bill specifies the director of the department of  
28 revenue shall administer the surcharge as nearly as possible  
29 in conjunction with the administration of the state sales tax.  
30 The bill specifies that numerous administrative and enforcement  
31 laws relating to the sales tax apply to surcharges imposed  
32 under the bill. The bill requires each municipality to assist  
33 the department in identifying new establishments required to  
34 impose the surcharge in the district.

35 The bill creates a state surcharge revenue fund in the

1 state treasury under the control of the department of revenue  
2 consisting of surcharge revenues collected within each  
3 local entertainment district. The bill creates a local  
4 entertainment district account for each municipality creating a  
5 district. The bill requires the revenues be deposited into the  
6 appropriate district account.

7 All revenues in each district account within the state  
8 surcharge revenue fund shall be remitted quarterly by  
9 the department to the municipality or municipalities that  
10 established the district for deposit in the general fund of  
11 the municipality. Surcharge revenues deposited into the  
12 general fund of the municipality shall be deposited in the  
13 following funds, as applicable: the debt service fund in  
14 Code section 331.430 or 384.4, the emergency services fund in  
15 Code section 331.424C or the emergency fund in Code section  
16 384.8, or the capital improvements fund in Code section 384.7.  
17 If the surcharge revenues are not deposited in any of the  
18 above-mentioned funds, the surcharge revenues shall be used for  
19 any of the purposes described under Code section 384.3A(3)(b),  
20 (c), (e), (f), or (g).