

House File 2236 - Introduced

HOUSE FILE 2236

BY LOHSE

A BILL FOR

1 An Act authorizing the establishment of entertainment areas
2 within self-supported municipal improvement districts,
3 authorizing the imposition of an entertainment surcharge,
4 and making an appropriation.

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

1 Section 1. Section 386.1, Code 2022, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 0A. "*Alcoholic beverage*" means the same as
4 defined in section 123.3.

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

9 NEW SUBSECTION. 2B. "*Department*" means the department of
10 revenue.

11 NEW SUBSECTION. 2C. "*Director*" means the director of the
12 department of revenue.

13 NEW SUBSECTION. 3A. "*Entertainment area*" means all or a
14 portion of a district as designated by ordinance under this
15 chapter and the cultural or entertainment establishments, food
16 establishments, liquor establishments, and lessors therein that
17 are subject to the entertainment surcharge in accordance with
18 section 386.3A.

19 NEW SUBSECTION. 3B. "*Entertainment tickets*" means all
20 tickets or admissions subject to taxation pursuant to section
21 423.2, subsection 3.

22 NEW SUBSECTION. 3C. "*Food*" means the same as defined in
23 section 137F.1.

24 NEW SUBSECTION. 3D. "*Food establishment*" means a food
25 establishment licensed pursuant to chapter 137F, at which food
26 is served or sold at retail. "*Food establishment*" also includes
27 a temporary food establishment defined in section 137F.1.

28 NEW SUBSECTION. 4A. "*Licensed premises*" means the same as
29 defined in section 123.3.

30 NEW SUBSECTION. 4B. "*Liquor establishment*" means a licensed
31 premises in or at which alcoholic beverages are sold at retail.

32 NEW SUBSECTION. 4C. "*Lodging*" means the same as defined in
33 section 423A.2. "*Lodging*" does not include lodging exempted
34 from tax pursuant to section 423A.5.

35 NEW SUBSECTION. 6A. "*Retail sale*" means the same as defined

1 in section 423.1.

2 NEW SUBSECTION. 7A. "*Surcharge*" means an entertainment
3 surcharge imposed pursuant to this chapter.

4 Sec. 2. Section 386.2, Code 2022, is amended to read as
5 follows:

6 **386.2 Authorization.**

7 1. A city ~~which~~ that proposes to create a district, to
8 provide for its existence and operation, to provide for
9 improvements or self-liquidating improvements for the district,
10 to authorize and issue bonds for the purposes of the district,
11 and to levy the taxes authorized by **this chapter** must do so in
12 accordance with the provisions of **this chapter**.

13 2. A city that proposes to create an entertainment area
14 within a district and impose an entertainment surcharge must do
15 so in accordance with the provisions of this chapter.

16 Sec. 3. NEW SECTION. **386.3A Establishment of an**
17 **entertainment area — entertainment surcharge — use of revenues.**

18 1. An entertainment area may be created by ordinance of
19 the council in accordance with the provisions of this section.

20 A proposed entertainment area shall meet the following
21 requirements:

22 a. The combined attendance at cultural or entertainment
23 establishments, food establishments, and liquor establishments
24 within the proposed entertainment area exceeded five hundred
25 thousand persons during the previous calendar year, or the
26 attendance forecast at such establishments is reasonably
27 expected to exceed five hundred thousand persons per calendar
28 year within two years of the establishment of the entertainment
29 area.

30 b. The proposed entertainment area consists of contiguous
31 parcels and does not exceed seventy-five acres in total.

32 c. The proposed entertainment area does not include the
33 entire incorporated area of the city.

34 2. Prior to adopting the ordinance under subsection 3,
35 a proposed entertainment area plan shall be developed by

1 the council. The plan shall state the council's intent to
2 establish an entertainment area and a legal description of the
3 real estate forming the boundaries of the area to be included
4 along with a map depicting the existing parcels of real estate
5 located in the proposed entertainment area.

6 3. After developing a plan and stating the council's
7 intent to establish such an area, the council may establish
8 the entertainment area and impose an entertainment surcharge
9 pursuant to this chapter by adopting an ordinance. The
10 surcharge shall be imposed at a rate not to exceed three
11 percent upon the following within the entertainment area:

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

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

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

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

3 6. a. If within thirty days after adoption of the ordinance
4 that imposes a surcharge, or if after the ordinance has
5 been in effect for one year, the council receives a valid
6 petition as provided in section 362.4 requesting that the
7 question of whether to repeal the ordinance be submitted to the
8 registered voters of the city, the council shall direct the
9 county commissioner of elections to submit to the voters at an
10 election held on a date specified in section 39.2, subsection
11 4, paragraph "b", the question of whether the ordinance that
12 imposes the surcharge shall be repealed.

13 b. If a majority of the total votes cast for and against the
14 proposition favors repeal of the surcharge the ordinance shall
15 be repealed and collection of the surcharge shall terminate on
16 either June 30 or December 31 following the election, whichever
17 is sooner.

18 7. The ordinance creating an entertainment area may be
19 amended and property may be added to the entertainment area and
20 the entertainment surcharge may be changed at any time in the
21 same manner and by the same procedure as for the establishment
22 of the entertainment area and imposition of the surcharge.

23 8. a. Upon the remittance of the revenues from the state
24 revenue surcharge fund to the city under section 386.3C, the
25 revenues shall be deposited into the general fund of the city.

26 b. Surcharge revenues deposited into the general fund of the
27 city shall be used as follows, as applicable:

28 (1) For deposit into the debt service fund in section 384.4.

29 (2) For deposit into the emergency fund in section 384.8.

30 (3) For deposit into the capital improvements fund in
31 section 384.7.

32 (4) For the purposes described in section 384.3A,
33 subsection 3, paragraph "b", "c", "e", "f", or "g".

34 Sec. 4. NEW SECTION. 386.3B Administration of surcharge.

35 1. The director shall administer the surcharge imposed

1 pursuant to this chapter as nearly as possible in conjunction
2 with the administration of state sales tax laws. The director
3 shall provide appropriate forms, or provide space on the
4 regular state tax forms, for reporting surcharge liability.

5 2. *a.* Section 422.25, subsection 4, sections 422.30,
6 422.67, and 422.68, section 422.69, subsection 1, sections
7 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14,
8 subsection 1, and sections 423.23, 423.24, 423.25, 423.31,
9 423.33, 423.35, 423.37 through 423.42, and 423.47, consistent
10 with the provisions of this chapter, apply with respect to the
11 surcharge authorized under this chapter, in the same manner and
12 with the same effect as retail sales taxes within the meaning
13 of those statutes. The director may require all persons
14 who are engaged in the business of deriving any sales price
15 subject to a surcharge under this chapter to register with the
16 department. All surcharges collected under this chapter are
17 deemed to be held in trust for the state of Iowa and the local
18 jurisdictions imposing the surcharges. Local officials shall
19 confer with the director of revenue for assistance in drafting
20 the ordinance imposing the surcharge. A certified copy of the
21 ordinance shall be filed with the director as soon as possible
22 after passage.

23 *b.* Frequency of deposits and quarterly reports of the
24 surcharge with the department of revenue are governed by the
25 provisions in section 423.31. Local surcharge collections
26 shall not be included in computation of the total tax to
27 determine frequency of filing under section 423.31.

28 *c.* The director shall apply a boundary change of an
29 entertainment area to the imposition or collection of that
30 surcharge only on the first day of a calendar quarter which
31 occurs sixty days or more after the director has given notice
32 of the boundary change to sellers.

33 3. *a.* The director, in consultation with local officials,
34 shall collect and account for the surcharge. The director
35 shall certify each quarter the amount of the surcharge receipts

1 and any interest and penalties to be credited to the city
2 account in the state surcharge revenue fund established in
3 section 386.3C. Local authorities shall not require any permit
4 not required by the director of revenue.

5 *b.* All surcharge revenues and interest and penalties
6 received or refunded one hundred eighty days or more after the
7 date on which the city repeals the surcharge shall be deposited
8 in or withdrawn from the general fund of the state.

9 4. Each city that has established an entertainment area
10 under this chapter shall assist the department in identifying
11 new establishments required to impose the surcharge in the
12 entertainment area. This process shall be ongoing until the
13 surcharge is repealed.

14 Sec. 5. NEW SECTION. 386.3C State surcharge revenue fund —
15 **district accounts.**

16 1. A state surcharge revenue fund is established in the
17 state treasury under the control of the department consisting
18 of the surcharge revenues collected within each entertainment
19 area and deposited in the fund pursuant to section 386.3B.
20 Revenues deposited in the fund are appropriated to the
21 department for the purposes of this section.

22 2. A district account is created within the fund for each
23 city creating an entertainment area under this chapter.

24 3. The department shall deposit the revenues described in
25 subsection 1 that were collected in a quarter beginning on
26 or after the entertainment area's commencement date into the
27 appropriate district account in the fund.

28 4. All revenues in each district account within the fund
29 shall be remitted quarterly by the department to the city that
30 established the entertainment area for deposit in the general
31 fund of the city.

32 5. The department shall adopt rules pursuant to chapter 17A
33 necessary to administer the department's responsibilities under
34 this chapter.

35 Sec. 6. Section 423A.5A, subsection 3, Code 2022, is amended

1 to read as follows:

2 3. Unless otherwise provided in this section, the
3 state-imposed tax under section 423A.3 and any locally
4 imposed tax under section 423A.4 shall be collected by the
5 lodging provider from the user of that lodging and shall be
6 remitted to the department. The lodging provider shall add
7 the state-imposed tax to the sales price of the lodging and
8 the tax, when collected, shall be stated as a distinct item,
9 separate and apart from the sales price of the lodging and from
10 the locally imposed tax under section 423A.4 or entertainment
11 surcharge under chapter 386, if any. The lodging provider
12 shall add the locally imposed tax, if any, to the sales price
13 of the lodging and the tax, when collected, shall be stated as
14 a distinct item, separate and apart from the sales price of
15 the lodging and from the state-imposed tax or entertainment
16 surcharge under chapter 386, if any.

17 EXPLANATION

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

20 This bill relates to self-supported municipal improvement
21 districts (district) by authorizing cities to establish
22 entertainment areas within a district and to impose an
23 entertainment surcharge within the area.

24 Under the bill, a city may establish an entertainment
25 area (area) by ordinance for the purpose of imposing an
26 entertainment surcharge (surcharge). The proposed area
27 shall meet all of the following requirements: the combined
28 attendance at cultural or entertainment establishments,
29 food establishments, and liquor establishments within the
30 proposed area exceeded 500,000 persons during the previous
31 calendar year, or the expected attendance forecast at such
32 establishments is expected to exceed 500,000 persons per
33 calendar year within two years; the proposed area consists
34 of contiguous parcels and does not exceed 75 acres; and the
35 proposed area does not include the entire incorporated area of

1 the city.

2 The bill defines "cultural or entertainment establishment"
3 to mean a sporting or concert event venue, performing arts
4 theater, movie theater, museum, convention hall, or enclosed
5 shopping mall. The bill defines "food establishment" to mean a
6 food establishment licensed pursuant to Code chapter 137F, at
7 which food is served or sold at retail. "Food establishment"
8 also includes a "temporary food establishment" defined in Code
9 section 137F.1. The bill defines "liquor establishment" to
10 mean a licensed premises in or at which alcoholic beverages are
11 sold at retail. The bill defines "entertainment tickets" to
12 mean all tickets or admissions subject to taxation pursuant to
13 Code section 423.2(3). The bill defines "lodging" to mean the
14 same as defined in Code section 432A.2. However, lodging does
15 not include lodging exempted from tax pursuant to Code section
16 423A.5.

17 The surcharge imposed under the bill shall be a rate not to
18 exceed 3 percent, which shall be imposed upon the following
19 within the area: the retail sales price of food or alcoholic
20 beverages sold at a cultural or entertainment establishment,
21 food establishment, or liquor establishment; the sales price
22 of all sales of entertainment tickets sold at a cultural or
23 entertainment establishment; or the sales price for the renting
24 of any lodging.

25 The bill specifies that the surcharge shall be in addition
26 to the state sales tax imposed pursuant to Code chapter 423,
27 subchapter II, the state-imposed and locally imposed hotel and
28 motel tax pursuant to Code chapter 423A, or the local sales and
29 services tax imposed pursuant to Code chapter 423B.

30 The bill establishes a process to adopt or repeal the
31 surcharge. A surcharge shall be imposed either on January 1 or
32 July 1 following notification of the director of revenue but
33 not sooner than 90 days following the passage of the ordinance
34 imposing the rate of the surcharge and not sooner than 60 days
35 following notice to the sellers in the area. A surcharge shall

1 be repealed only on June 30 or December 31 but no sooner than 90
2 days following the repeal of the ordinance. A surcharge may
3 also be repealed by petition upon the majority vote of persons
4 in the city beginning 30 days after adoption of the ordinance.

5 The bill specifies the director of the department of
6 revenue shall administer the surcharge as nearly as possible
7 in conjunction with the administration of the state sales tax.
8 The bill specifies that administrative and enforcement laws
9 relating to the sales tax apply to surcharges imposed under the
10 bill. The bill requires each city to assist the department in
11 identifying new establishments required to impose the surcharge
12 in the area.

13 The bill creates a state surcharge revenue fund in the
14 state treasury under the control of the department of revenue
15 consisting of surcharge revenues collected within each
16 entertainment area. The bill creates a district account for
17 each city creating an area. The bill requires the revenues be
18 deposited into the appropriate district account.

19 All revenues in each district account within the state
20 surcharge revenue fund shall be remitted quarterly by the
21 department to the city that established the area for deposit
22 in the general fund of the city. Surcharge revenues deposited
23 into the general fund of the city may be deposited in any of
24 the following funds: the debt service fund in Code section
25 384.4, the emergency fund in Code section 384.8, or the capital
26 improvements fund in Code section 384.7. If the surcharge
27 revenues are not deposited in any of the above-mentioned funds,
28 the surcharge revenues shall be used for any of the purposes
29 described under Code section 384.3A(3)(b), (c), (e), (f), or
30 (g).