

House File 412 - Introduced

HOUSE FILE 412
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO HF 42)

A BILL FOR

1 An Act authorizing cities to establish self-supported
2 entertainment areas.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 386A.1 Definitions.

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

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

6 2. "*Council*" means the governing body of a city.

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

10 4. "*Department*" means the department of revenue.

11 5. "*Director*" means the director of the department of
12 revenue.

13 6. "*Entertainment area*" or "*area*" means an area designated
14 by ordinance under this chapter and the cultural or
15 entertainment establishments, food establishments, liquor
16 establishments, and lodging providers therein that are subject
17 to the entertainment surcharge in accordance with section
18 386A.3.

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

21 8. "*Food*" means the same as defined in section 137F.1.

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

26 10. "*Licensed premises*" means the same as defined in section
27 123.3.

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

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

33 13. "*Lodging provider*" means the same as defined in section
34 423A.2.

35 14. "*Property owner*" or "*owner*" means the owner of property,

1 as shown by the transfer books in the office of the county
2 auditor of the county in which the property is located.

3 15. "*Retail sale*" means the same as defined in section
4 423.1.

5 16. "*Surcharge*" means an entertainment surcharge imposed
6 pursuant to this chapter.

7 Sec. 2. NEW SECTION. **386A.2 Authorization.**

8 A city that proposes to create an entertainment area and
9 impose an entertainment surcharge must do so in accordance with
10 the provisions of this chapter.

11 Sec. 3. NEW SECTION. **386A.3 Establishment of an
12 entertainment area — entertainment surcharge — use of revenues.**

13 1. An entertainment area may be created by ordinance of the
14 council in accordance with the provisions of this section. A
15 proposed entertainment area shall meet all of the following
16 requirements:

17 *a.* The combined attendance at cultural or entertainment
18 establishments, food establishments, liquor establishments,
19 and lodging providers within the proposed entertainment
20 area exceeded two hundred fifty thousand persons during the
21 previous calendar year, or the attendance forecast at such
22 establishments is reasonably expected to exceed two hundred
23 fifty thousand persons per calendar year within two years of
24 the establishment of the entertainment area.

25 *b.* The proposed entertainment area consists of contiguous
26 parcels wholly within the boundaries of the city and does not
27 exceed one hundred acres in total.

28 *c.* The proposed entertainment area does not include the
29 entire incorporated area of the city.

30 *d.* The proposed entertainment area consists only of
31 properties zoned for commercial uses or properties within a
32 duly designated historic district, and at least seventy-five
33 percent of the properties must be cultural or entertainment
34 establishments, food establishments, liquor establishments, or
35 lodging providers.

1 e. The proposed entertainment area must be comprised of
2 property related in some manner, including but not limited
3 to present or potential use, physical location, condition,
4 relationship to the area, or relationship to present or
5 potential commercial or other activity in the area, so as
6 to be benefited in any manner, including but not limited to
7 a benefit from present or potential use or enjoyment of the
8 property, by the condition, development, or maintenance of
9 the area or of any improvement or services provided to the
10 area or be comprised of property the owners of which have a
11 present or potential benefit from the condition, development,
12 or maintenance of the area or of any improvement or services
13 provided to the area.

14 f. The entertainment area shall be given a descriptive name
15 containing the words "entertainment area".

16 2. The council shall initiate proceedings for the adoption
17 of an ordinance under subsection 6 upon the filing of a
18 petition containing all of the following:

19 a. The signatures of at least a majority of all owners
20 of property within the proposed entertainment area. These
21 signatures must together represent ownership of at least
22 twenty-five percent or more of the total number of cultural
23 or entertainment establishments, food establishments,
24 liquor establishments, and lodging providers in the proposed
25 entertainment area.

26 b. A description of the boundaries of the proposed
27 entertainment area, or a consolidated description of the
28 property within the proposed area, along with a map depicting
29 the existing parcels of real estate located in the proposed
30 entertainment area.

31 c. The name of the proposed entertainment area.

32 d. Subject to the limitations of subsection 4, paragraph
33 "e", a statement of the maximum surcharge rate that may be
34 imposed upon retail sales within the entertainment area.

35 e. The purpose of the establishment of the entertainment

1 area, which may be stated generally, or in terms of the
2 relationship of the property within the entertainment
3 area or the interests of the owners of property within the
4 entertainment area, or in terms of the specific or general
5 categories of improvements proposed to be developed for the
6 purposes of the entertainment area, or in terms of the services
7 to be provided within the entertainment area and supported
8 from the revenues of the surcharge, or a combination of such
9 purposes.

10 *f.* A statement of the specified length of time the surcharge
11 shall be imposed for the purposes of the entertainment area,
12 along with any option to renew the surcharge.

13 3. Upon receiving a valid petition for establishment of
14 an entertainment area, the council shall set a time and place
15 for a public hearing on the establishment of the entertainment
16 area, and shall publish notice of the public hearing as
17 provided in section 362.3, and the clerk shall send a copy of
18 the notice by certified mail not less than fifteen days before
19 the hearing to each owner of property within the proposed
20 entertainment area at the owner's address as shown by the
21 records of the county auditor.

22 4. In addition to the time and place of the public hearing
23 on the petition, the notice must state all of the following:

24 *a.* That a petition has been filed with the council asking
25 that an entertainment area be established.

26 *b.* The name of the entertainment area.

27 *c.* The purpose of the entertainment area.

28 *d.* The property proposed to be included in the entertainment
29 area.

30 *e.* The maximum surcharge, not to exceed three percent, which
31 may be imposed upon any of the following retail sales within
32 the entertainment area:

33 (1) The retail sales price of food or alcoholic beverages
34 sold at a cultural or entertainment establishment, food
35 establishment, or liquor establishment.

1 (2) The retail sales price of entertainment tickets sold at
2 a cultural or entertainment establishment.

3 (3) The retail sales price for the renting of any lodging.

4 5. At the time and place set in the notice the council
5 shall hear all owners of property in the proposed entertainment
6 area or residents of the city desiring to express their
7 views. The council must wait at least thirty days after the
8 public hearing has been held before the council may adopt an
9 ordinance establishing the entertainment area. The established
10 entertainment area must be comprised of all the property in
11 the proposed entertainment area that the council finds has the
12 relationship or whose owners have the interest described in
13 subsection 1, paragraph "e". Property included in the proposed
14 entertainment area need not be included in the established
15 entertainment area. However, no property may be included in
16 the entertainment area that was not included in the proposed
17 entertainment area until the council has held another hearing
18 after the council has published and mailed the same notice as
19 required in subsections 3 and 4 on the original petition to
20 the owners of the additional property, or has caused a notice
21 of the inclusion of the property to be personally serviced
22 upon each owner of the additional property, or has received
23 a written waiver of notice from each owner of the additional
24 property.

25 6. Adoption of the ordinance establishing the entertainment
26 area requires the affirmative vote of three-fourths of all the
27 members of the council, or in cities having three members of
28 the council, the affirmative vote of two members. However,
29 if a remonstrance has been filed with the clerk signed by at
30 least twenty-five percent of all owners of property within
31 the proposed entertainment area representing ownership of
32 at least twenty-five percent or more of the total number of
33 cultural or entertainment establishments, food establishments,
34 liquor establishments, and lodging providers in the proposed
35 entertainment area, the adoption of the ordinance requires a

1 unanimous vote of the council.

2 7. The clerk shall cause a copy of the ordinance to be filed
3 in the office of the county recorder of each county in which
4 any property within the entertainment area is located.

5 8. At any time prior to the final adoption of an ordinance
6 establishing an entertainment area, the entire matter of
7 establishing such entertainment area shall be withdrawn from
8 council consideration if a petition objecting to establishing
9 such entertainment area is filed with the clerk containing
10 signatures of at least forty percent or more of all owners of
11 property in the proposed entertainment area or signatures which
12 together represent ownership of forty percent or more of the
13 total number of cultural or entertainment establishments, food
14 establishments, liquor establishments, and lodging providers
15 within the proposed entertainment area.

16 9. The adoption of an ordinance establishing an
17 entertainment area is a legislative determination that the
18 property within the entertainment area has the relationship
19 or its owners have the interest required under subsection 1,
20 paragraph "e", and includes all of the property within the
21 entertainment area which has that relationship or the ownership
22 of which has that interest in the entertainment area.

23 10. Any resident or property owner of the city may appeal
24 the action and the decisions of the council, including
25 the creation of the entertainment area and imposition of a
26 surcharge for the entertainment area, to the district court
27 of the county in which any part of the entertainment area
28 is located, within thirty days after the date upon which the
29 ordinance creating the entertainment area becomes effective,
30 but the action and decision of the council are final and
31 conclusive unless the court finds that the council exceeded
32 its authority. An action shall not be brought questioning the
33 regularity of the proceedings pertaining to the establishment
34 of the entertainment area or the validity of the entertainment
35 area, or the propriety of the inclusion or exclusion of

1 any property within or from the entertainment area, or the
2 ability of the city to impose the surcharge in accordance
3 with the ordinance establishing the entertainment area, after
4 thirty days from the date on which the ordinance creating the
5 entertainment area becomes effective.

6 11. The surcharge imposed by the ordinance establishing
7 the entertainment area shall be in addition to the state
8 sales tax imposed pursuant to chapter 423, subchapter II, the
9 state-imposed and locally imposed hotel and motel tax pursuant
10 to chapter 423A, and the local sales and services tax imposed
11 pursuant to chapter 423B.

12 12. *a.* Within ten days of the effective date of the
13 ordinance establishing the area and imposing the surcharge, the
14 county auditor of the county with the largest parcel in the
15 entertainment area shall give written notice to the director by
16 sending a copy of the ordinance to the director.

17 *b.* A surcharge shall be imposed either January 1 or July
18 1 following the notification of the director but not sooner
19 than ninety days following the effective date of the ordinance
20 imposing the surcharge and not sooner than sixty days following
21 notice to sellers with a place of business, as defined in
22 section 423.1, in the entertainment area and to lodging
23 providers operating lodging in the entertainment area.

24 *c.* A surcharge shall be repealed only on June 30 or December
25 31 but not sooner than ninety days following repeal of the
26 ordinance. At least forty days before the repeal of the
27 surcharge, the council shall provide notice of the action by
28 certified mail to the director.

29 13. *a.* An entertainment area may be dissolved and
30 terminated by action of the council rescinding the ordinance
31 creating the area and any subsequent ordinances amending the
32 area by an affirmative vote of three-fourths of all members
33 of the council, or in cities having three members of the
34 council, the affirmative vote of two members. However, if
35 a remonstrance has been filed with the clerk signed by at

1 least twenty-five percent of all owners of property within the
2 area representing ownership of at least twenty-five percent
3 or more of the total number of cultural or entertainment
4 establishments, food establishments, liquor establishments, and
5 lodging providers in the area, the rescission of the ordinance
6 creating the area, and any subsequent ordinances amending the
7 area, requires a unanimous vote of the council.

8 *b.* At any time prior to action of the council rescinding the
9 ordinance creating the entertainment area, and any subsequent
10 ordinances amending the area, the entire matter of dissolving
11 an area shall be withdrawn from council consideration if a
12 petition is filed with its clerk containing the signatures of
13 at least forty percent of all owners of property within the
14 area or signatures which together represent ownership of at
15 least forty percent or more of the total number of cultural
16 or entertainment establishments, food establishments, liquor
17 establishments, and lodging providers within the area.

18 14. The ordinance creating an entertainment area may be
19 amended, including to add property to the area, remove property
20 from the area, extend the duration of the area, or alter the
21 amount of the entertainment surcharge, by the same procedure as
22 for the establishment of the entertainment area and imposition
23 of the surcharge.

24 15. *a.* Upon the adoption of an ordinance establishing an
25 entertainment area, the city shall establish an entertainment
26 area fund, and upon remittance of the revenues from the state
27 surcharge revenue fund to the city under section 386A.5, the
28 revenues shall be deposited into the city's entertainment area
29 fund.

30 *b.* Surcharge revenues deposited into an entertainment area
31 fund of the city shall only be used for the following, as
32 applicable:

- 33 (1) For deposit into the debt service fund in section 384.4.
34 (2) For deposit into the emergency fund in section 384.8.
35 (3) For deposit into the capital improvements fund in

1 section 384.7.

2 (4) For the purposes described in section 384.3A,
3 subsection 3, paragraph "b", "c", "e", "f", or "g", including
4 city operational expenses for public safety services within the
5 entertainment area.

6 Sec. 4. NEW SECTION. **386A.4 Administration of surcharge.**

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 the
23 department. All surcharges collected under this chapter are
24 deemed to be held in trust for the state of Iowa and the cities
25 imposing the surcharges. Local officials shall confer with the
26 director for assistance in drafting the ordinance imposing the
27 surcharge. A certified copy of the ordinance shall be filed
28 with the director as soon as possible after passage.

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

34 c. The director shall apply a boundary change of an
35 entertainment area to the imposition or collection of that

1 surcharge only on the first day of a calendar quarter which
2 occurs sixty days or more after the director has given notice
3 of the boundary change to sellers with a place of business,
4 as defined in section 423.1, in the entertainment area and to
5 lodging providers operating lodging in the entertainment area.

6 3. a. The director, in consultation with local officials,
7 shall collect and account for the surcharge. The director
8 shall certify each quarter the amount of the surcharge receipts
9 and any interest and penalties to be credited to the city
10 account in the state surcharge revenue fund established in
11 section 386A.5. Local authorities shall not require any permit
12 not required by the director.

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

17 4. Each city that has established an entertainment area
18 under this chapter shall assist the department in identifying
19 new establishments required to impose the surcharge in the
20 entertainment area. This process shall be ongoing until the
21 surcharge is repealed.

22 Sec. 5. NEW SECTION. 386A.5 State surcharge revenue fund
23 — accounts.

24 1. A state surcharge revenue fund is established in the
25 state treasury under the control of the department consisting
26 of the surcharge revenues collected within each entertainment
27 area and deposited in the fund pursuant to section 386A.4.
28 Revenues deposited in the fund are appropriated to the
29 department for the purposes of this section.

30 2. An entertainment area account is created within the
31 fund for each city creating an entertainment area under this
32 chapter.

33 3. The department shall deposit the revenues described in
34 subsection 1 that were collected in a quarter beginning on
35 or after the entertainment area's commencement date into the

1 appropriate entertainment area account in the fund.

2 4. All revenues in each entertainment area account within
3 the fund shall be remitted quarterly by the department to the
4 city that established the entertainment area for deposit in the
5 entertainment area fund of the city.

6 5. The department shall adopt rules pursuant to chapter 17A
7 necessary to administer the department's responsibilities under
8 this chapter.

9 Sec. 6. Section 423A.5A, subsection 3, Code 2023, is amended
10 to read as follows:

11 3. Unless otherwise provided in [this section](#), the
12 state-imposed tax under [section 423A.3](#) and any locally
13 imposed tax under [section 423A.4](#) shall be collected by the
14 lodging provider from the user of that lodging and shall be
15 remitted to the department. The lodging provider shall add
16 the state-imposed tax to the sales price of the lodging and
17 the tax, when collected, shall be stated as a distinct item,
18 separate and apart from the sales price of the lodging and from
19 the locally imposed tax under section 423A.4 or entertainment
20 surcharge under chapter 386A, if any. The lodging provider
21 shall add the locally imposed tax, if any, to the sales price
22 of the lodging and the tax, when collected, shall be stated as
23 a distinct item, separate and apart from the sales price of
24 the lodging and from the state-imposed tax or entertainment
25 surcharge under chapter 386A, if any.

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 authorizes cities to establish entertainment
30 areas and to impose an entertainment surcharge within the
31 area. Under the bill, following the filing of a qualifying
32 petition for the establishment of an entertainment area (area)
33 and holding a public hearing, a city may establish an area
34 by ordinance for the purpose of imposing an entertainment
35 surcharge (surcharge). The proposed area must meet all of

1 the following requirements: (1) the combined attendance at
2 cultural or entertainment establishments, food establishments,
3 liquor establishments, and lodging providers within the
4 proposed area exceeded 250,000 persons during the previous
5 calendar year, or the expected attendance forecast at such
6 establishments is expected to exceed 250,000 persons per
7 calendar year within two years; (2) the area consists of
8 contiguous parcels wholly within the boundaries of the city and
9 does not exceed 100 acres; (3) the area does not include the
10 entire incorporated area of the city; (4) the area consists
11 only of properties zoned for commercial uses or properties
12 within a designated historic district, and at least 75
13 percent of the properties must be cultural or entertainment
14 establishments, food establishments, liquor establishments, or
15 lodging providers; (5) the area must be comprised of property
16 related in some manner; and (6) the area must be given a
17 descriptive name.

18 Adoption of the ordinance establishing the area requires the
19 affirmative vote of three-fourths of all the members of the
20 council, or in cities having three members of the council, the
21 affirmative vote of two members. However, if a remonstrance
22 has been filed with the clerk signed by at least 25 percent of
23 all owners of property within the proposed area representing
24 ownership of at least 25 percent or more of the total number of
25 cultural or entertainment establishments, food establishments,
26 liquor establishments, and lodging providers in the proposed
27 area, the adoption of the ordinance requires a unanimous vote
28 of the council. At any time prior to the final adoption
29 of an ordinance establishing an area, the entire matter
30 of establishing such area shall be withdrawn from council
31 consideration if a petition objecting to establishing such area
32 is filed with the clerk containing signatures of at least 40
33 percent or more of all owners of property in the proposed area
34 or signatures which together represent ownership of 40 percent
35 or more of the total number of cultural or entertainment

1 establishments, food establishments, liquor establishments, and
2 lodging providers within the proposed entertainment area.

3 The surcharge authorized under the bill shall be a rate not
4 to exceed 3 percent, which shall be imposed upon any of the
5 following within the area: (1) the retail sales price of food
6 or alcoholic beverages sold at a cultural or entertainment
7 establishment, food establishment, or liquor establishment; (2)
8 the sales price of all sales of entertainment tickets sold at a
9 cultural or entertainment establishment; or (3) the sales price
10 for the renting of any lodging.

11 The bill specifies that the surcharge shall be in addition
12 to the state sales tax imposed pursuant to Code chapter 423,
13 subchapter II, the state-imposed and locally imposed hotel and
14 motel tax pursuant to Code chapter 423A, and the local sales
15 and services tax imposed pursuant to Code chapter 423B. The
16 bill establishes a process and timing for imposition or repeal
17 of the surcharge and for dissolution of the area.

18 The bill specifies the director of the department of
19 revenue shall administer the surcharge as nearly as possible
20 in conjunction with the administration of the state sales tax.
21 The bill specifies that administrative and enforcement laws
22 relating to the sales tax apply to surcharges imposed under the
23 bill. The bill requires each city to assist the department in
24 identifying new establishments required to impose the surcharge
25 in the area.

26 The bill creates a state surcharge revenue fund in the
27 state treasury under the control of the department of revenue
28 consisting of surcharge revenues collected within each area.
29 The bill creates an area account for each city creating an
30 area. The bill requires the revenues be deposited into the
31 appropriate area account. All revenues in each area account
32 shall be remitted quarterly by the department to the city
33 that established the area for deposit in the entertainment
34 area fund of the city. Surcharge revenues deposited into the
35 city's entertainment area fund may be deposited in any of

H.F. 412

1 the following funds: the debt service fund in Code section
2 384.4, the emergency fund in Code section 384.8, or the capital
3 improvements fund in Code section 384.7. If the surcharge
4 revenues are not deposited in any of the above-mentioned funds,
5 the surcharge revenues may also be used for any of the purposes
6 described under Code section 384.3A(3)(b), (c), (e), (f), or
7 (g).