

Senate File 2348 - Reprinted

SENATE FILE 2348

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2331)

(As Amended and Passed by the Senate April 9, 2014)

A BILL FOR

1 An Act relating to the approval and imposition of local option
2 taxes.

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

1 Section 1. Section 423B.1, subsection 1, Code 2014, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 1. *a.* A county may impose by ordinance of the board of
5 supervisors the local vehicle tax authorized by this chapter,
6 subject to this section.

7 *b.* A city or county may impose by ordinance the local sales
8 and services tax authorized by this chapter, subject to this
9 section.

10 Sec. 2. Section 423B.1, subsection 2, paragraph b,
11 subparagraph (3), Code 2014, is amended to read as follows:

12 (3) The tax once imposed shall continue to be imposed until
13 the county-imposed tax is ~~reduced or increased in rate or~~
14 ~~repealed, and then the city-imposed tax shall also be reduced~~
15 ~~or increased in rate or repealed in the same amount and be~~
16 effective on the same date.

17 Sec. 3. Section 423B.1, subsection 3, Code 2014, is amended
18 to read as follows:

19 3. *a.* ~~A local option tax shall be imposed only after an~~
20 ~~election at which~~ If a majority of those voting on the question
21 of imposition of a local option tax favors imposition and, the
22 local option tax shall then be imposed at the rate specified on
23 the ballot for an unlimited period until repealed as provided
24 in subsection 6, paragraph "a" this chapter.

25 *b.* If the tax is a local vehicle tax imposed by a county,
26 it shall apply to all incorporated and unincorporated areas of
27 the county.

28 *c.* (1) (a) If the tax is a local sales and services tax
29 imposed by a county that is a qualified county, it shall only
30 apply to ~~those incorporated areas and the unincorporated area~~
31 ~~of that county in which~~ if a majority of those voting in the
32 area on the tax favors its imposition.

33 (b) If the tax is a local sales and services tax imposed by
34 a city located in a county that is a qualified county, other
35 than a city under subsection 2, it shall only apply to the city

1 if a majority of those voting in the city on the tax favors its
2 imposition.

3 (2) If the tax is a local sales and services tax imposed by
4 a county that is not a qualified county, it shall only apply to
5 those incorporated areas and the unincorporated area of that
6 county in which a majority of those voting in the area on the
7 tax favors its imposition. For purposes of the local sales
8 and services tax imposed by a county that is not a qualified
9 county, all cities contiguous to each other shall be treated
10 as part of one incorporated area and the tax ~~would~~ shall be
11 imposed in each of those contiguous cities only if the majority
12 of those voting in the total area covered by the contiguous
13 cities favors its imposition. ~~In the case of a local sales and~~
14 ~~services tax submitted to the registered voters of two or more~~
15 ~~contiguous counties as provided in subsection 4, paragraph "c",~~
16 ~~all cities contiguous to each other shall be treated as part of~~
17 ~~one incorporated area, even if the corporate boundaries of one~~
18 ~~or more of the cities include areas of more than one county,~~
19 ~~and the tax shall be imposed in each of those contiguous cities~~
20 ~~only if a majority of those voting on the tax in the total area~~
21 ~~covered by the contiguous cities favored its imposition.~~ For
22 purposes of the local sales and services tax, a city is not
23 contiguous to another city if the only road access between the
24 two cities is through another state.

25 Sec. 4. Section 423B.1, Code 2014, is amended by adding the
26 following new subsection:

27 NEW SUBSECTION. 3A. For purposes of this chapter,
28 "*qualified county*" means a county with a population in excess
29 of four hundred thousand, a county with a population of at
30 least sixty thousand but not more than seventy thousand, or a
31 county with a population of at least forty-six thousand but not
32 more than forty-eight thousand, according to the 2010 federal
33 decennial census. Except for purposes of allocating local
34 sales and services tax receipts based on the county in which
35 the tax was collected under section 423B.7, subsection 1, a

1 city shall be deemed to be located in a qualified county if a
2 majority of the population of the city, according to the 2010
3 federal decennial census, resides in the qualified county.

4 Sec. 5. Section 423B.1, subsections 4 and 5, Code 2014, are
5 amended to read as follows:

6 4. a. (1) A The county board of supervisors shall direct
7 within thirty days the county commissioner of elections to
8 submit the question of imposition of a local vehicle tax ~~or~~
9 ~~a local sales and services tax~~ to the registered voters of
10 the incorporated and unincorporated areas of the county upon
11 receipt of a petition, requesting imposition of a local vehicle
12 tax ~~or a local sales and services tax~~, signed by eligible
13 electors of the whole county equal in number to five percent of
14 the persons in the whole county who voted at the last preceding
15 general election. ~~In the case of a local vehicle tax, the~~ The
16 petition requesting imposition shall specify the rate of tax
17 and the classes, if any, that are to be exempt. If more than
18 one valid petition is received, the earliest received petition
19 shall be used.

20 (2) The county board of supervisors for a qualified county
21 shall direct within thirty days the county commissioner of
22 elections to submit the question of imposition of a local
23 sales and services tax to the registered voters of a city or
24 to the registered voters of the unincorporated area of the
25 county upon receipt by the board of supervisors of a petition,
26 requesting imposition of a local sales and services tax, signed
27 by eligible electors of the city or eligible electors of the
28 unincorporated area of the county, as applicable, equal in
29 number to five percent of the persons in the applicable city
30 or unincorporated area of the county who voted at the last
31 preceding general election. If more than one valid petition
32 is received for a city or for the unincorporated area of the
33 county, the earliest received petition shall be used.

34 (3) A county board of supervisors for a county that is not
35 a qualified county shall direct within thirty days the county

1 commissioner of elections to submit the question of imposition
2 of a local sales and services tax to the registered voters of
3 the incorporated and unincorporated areas of the county upon
4 receipt of a petition, requesting imposition of a local sales
5 and services tax, signed by eligible electors of the whole
6 county equal in number to five percent of the persons in the
7 whole county who voted at the last preceding general election.
8 If more than one valid petition is received, the earliest
9 received petition shall be used.

10 b. (1) The question of the imposition of a local sales
11 and services tax in a qualified county shall be submitted to
12 the registered voters of the city or to the registered voters
13 of the unincorporated area of the county upon receipt by the
14 county commissioner of elections of a motion, requesting such
15 submission, adopted by the governing body of a city located
16 within the county or of the county for the unincorporated area
17 of the county. Upon adoption of such motion, the governing
18 body of the city or county for the unincorporated area, shall
19 submit the motion to the county commissioner of elections. The
20 county commissioner of elections shall publish notice of the
21 ballot proposition concerning the imposition of the local sales
22 and services tax. The manner provided under this subparagraph
23 for the submission of the question of imposition of a local
24 sales and services tax is an alternative to the manner provided
25 in paragraph "a", subparagraph (2).

26 (2) The question of the imposition of a local sales and
27 services tax in a county that is not a qualified county shall
28 be submitted to the registered voters of the incorporated and
29 unincorporated areas of the county upon receipt by the county
30 commissioner of elections of the motion or motions, requesting
31 such submission, adopted by the governing body or bodies of the
32 city or cities located within the county or of the county, for
33 the unincorporated areas of the county, representing at least
34 one half of the population of the county. Upon adoption of
35 such motion, the governing body of the city or county, for the

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

17 ~~c. Upon receipt of petitions or motions calling for the~~
18 ~~submission of the question of the imposition of a local sales~~
19 ~~and services tax as described in paragraph "a" or "b", the~~
20 ~~boards of supervisors of two or more contiguous counties in~~
21 ~~which the question is to be submitted may enter into a joint~~
22 ~~agreement providing that for purposes of this chapter, a~~
23 ~~city whose corporate boundaries include areas of more than~~
24 ~~one county shall be treated as part of the county in which a~~
25 ~~majority of the residents of the city reside. In such event,~~
26 ~~the county commissioners of elections from each such county~~
27 ~~shall cooperate in the selection of a single date upon which~~
28 ~~the election shall be held, and for all purposes of this~~
29 ~~chapter relating to the imposition, repeal, change of use,~~
30 ~~or collection of the tax, such a city shall be deemed to be~~
31 ~~part of the county in which a majority of the residents of the~~
32 ~~city reside. A copy of the joint agreement shall be provided~~
33 ~~promptly to the director of revenue.~~

34 5. a. The county commissioner of elections shall submit
35 the question of imposition of a local option tax at an election

1 held on a date specified in section 39.2, subsection 4,
2 paragraph "a" or "b", as applicable. The election shall not be
3 held sooner than sixty days after publication of notice of the
4 ballot proposition.

5 b. The ballot proposition shall specify the type and rate of
6 tax and, in the case of a vehicle tax, the classes that will be
7 exempt and, in the case of a local sales and services tax, the
8 date it will be imposed which date shall not be earlier than
9 ninety days following the election. The ballot proposition
10 shall also specify the approximate amount of local option tax
11 revenues that will be used for property tax relief and shall
12 contain a statement as to the specific purpose or purposes for
13 which the revenues shall otherwise be expended. If the county
14 board of supervisors in a county that is not a qualified county
15 or if the board of supervisors or city council, as applicable,
16 in a qualified county decides under subsection 6 to specify a
17 date on which the local option sales and services tax shall
18 automatically be repealed, the date of the repeal shall also be
19 specified on the ballot.

20 c. The rate of the vehicle tax shall be in increments of one
21 dollar per vehicle as set by the petition seeking to impose the
22 tax.

23 d. The rate of a local sales and services tax shall ~~not~~ be
24 ~~more than one percent as set by the governing body.~~

25 e. The state commissioner of elections shall establish by
26 rule the form for the ballot proposition which form shall be
27 uniform throughout the state.

28 Sec. 6. Section 423B.1, subsection 6, paragraph a,
29 subparagraph (1), Code 2014, is amended by striking the
30 subparagraph.

31 Sec. 7. Section 423B.1, subsection 6, paragraph a,
32 subparagraphs (2) and (3), Code 2014, are amended to read as
33 follows:

34 (2) (a) The A local option tax may be repealed or the
35 rate of the local vehicle tax increased or decreased or the

1 use ~~thereof~~ of a local option tax changed after an election at
2 which a majority of those voting on the question of repeal or
3 rate or use change ~~favor~~ favours the repeal or rate or use
4 change.

5 (b) The date on which the repeal, rate, or use change is
6 to take effect shall not be earlier than ninety days following
7 the election. The election at which the question of repeal
8 or rate or use change is offered shall be called and held in
9 the same manner and under the same conditions as provided in
10 subsections 4 and 5 for the election on the imposition of the
11 local option tax. However, in the case of a local sales and
12 services tax where the tax has not been imposed countywide, the
13 question of repeal or imposition ~~or rate~~ or use change shall
14 be voted on only by the registered voters of the areas of the
15 county where the tax has been imposed or has not been imposed,
16 as appropriate.

17 (c) ~~However, the~~ The governing body of the ~~incorporated~~
18 ~~area~~ city or unincorporated area where the local sales and
19 services tax is imposed may, upon its own motion, request the
20 county commissioner of elections to hold an election in the
21 ~~incorporated~~ city or unincorporated area, as appropriate, on
22 the question of the change in use of local sales and services
23 tax revenues. The election may be held at any time but not
24 sooner than sixty days following publication of the ballot
25 proposition. If a majority of those voting in the ~~incorporated~~
26 city or unincorporated area on the change in use favors the
27 change, the governing body of that city or area shall change
28 the use to which the revenues shall be used. The ballot
29 proposition shall list the present use of the revenues, the
30 proposed use, and the date after which revenues received will
31 be used for the new use.

32 (3) When submitting the question of the imposition of a
33 local sales and services tax, the ~~county~~ board of supervisors
34 of a county that is not a qualified county or the board of
35 supervisors or the governing body of the city, as applicable,

1 in a qualified county may direct that the question contain a
2 provision for the repeal, without election, of the local sales
3 and services tax on a specific date, which date shall be as
4 provided in section 423B.6, subsection 1.

5 Sec. 8. Section 423B.1, subsection 7, paragraph b, Code
6 2014, is amended to read as follows:

7 *b.* Costs of local option tax elections shall be apportioned
8 among jurisdictions within the county voting on the question
9 at the same election on a pro rata basis in proportion to the
10 number of registered voters in each taxing jurisdiction voting
11 on the question and the total number of registered voters in
12 all of the taxing jurisdictions voting on the question.

13 Sec. 9. Section 423B.1, subsection 8, Code 2014, is amended
14 by striking the subsection.

15 Sec. 10. Section 423B.1, subsections 9 and 10, Code 2014,
16 are amended to read as follows:

17 9. *a.* ~~In a county that has imposed a local option sales~~
18 ~~and services tax that is not a qualified county,~~ the board
19 of supervisors shall, notwithstanding any contrary provision
20 of this chapter, repeal the local option sales and services
21 tax in the unincorporated areas or in an incorporated city
22 area in which the tax has been imposed upon adoption of ~~its~~
23 the board's own motion for repeal in the unincorporated areas
24 or upon receipt of a motion adopted by the governing body of
25 that incorporated city area requesting repeal. The board of
26 supervisors shall repeal the local option sales and services
27 tax effective on the ~~later of the date of the adoption of~~
28 ~~the repeal motion or the~~ earliest date specified in section
29 423B.6, subsection 1, following adoption of the motion. For
30 purposes of this ~~subsection~~ paragraph, incorporated city area
31 includes an incorporated city which is contiguous to another
32 incorporated city.

33 *b.* For a qualified county:

34 (1) In a city that has imposed a local sales and services
35 tax, the governing body of the city shall, notwithstanding any

1 contrary provision of this chapter, repeal the local sales and
2 services tax in the city upon adoption of its own motion for
3 repeal. The governing body of the city shall repeal the local
4 sales and services tax effective on the earliest date specified
5 in section 423B.6, subsection 1, following adoption of the
6 motion.

7 (2) In the unincorporated area of the county where the
8 local sales and services tax has been imposed, the board of
9 supervisors shall, notwithstanding any contrary provision of
10 this chapter, repeal the local sales and services tax in the
11 unincorporated area of the county upon adoption of its own
12 motion for repeal. The board of supervisors shall repeal the
13 local sales and services tax effective on the earliest date
14 specified in section 423B.6, subsection 1, following adoption
15 of the motion.

16 10. Notwithstanding subsection 9 or any other contrary
17 provision of this chapter, a local option sales and services
18 tax shall not be repealed ~~or reduced in rate~~ if obligations are
19 outstanding which are payable as provided in section 423B.9,
20 unless funds sufficient to pay the principal, interest, and
21 premium, if any, on the outstanding obligations at and prior
22 to maturity have been properly set aside and pledged for that
23 purpose.

24 Sec. 11. Section 423B.5, Code 2014, is amended to read as
25 follows:

26 **423B.5 Local sales and services tax.**

27 1. A local sales and services tax at the rate of not more
28 than one percent may be imposed by a city or county pursuant
29 to this chapter shall be imposed on the sales price taxed
30 by the state under chapter 423, subchapter II. A local sales
31 and services tax shall be imposed on the same basis as the
32 state sales and services tax or in the case of the use of
33 natural gas, natural gas service, electricity, or electric
34 service on the same basis as the state use tax and shall not
35 be imposed on the sale of any property or on any service not

1 taxed by the state, except the tax shall not be imposed on
2 the sales price from the sale of motor fuel or special fuel
3 as defined in chapter 452A which is consumed for highway use
4 or in watercraft or aircraft if the fuel tax is paid on the
5 transaction and a refund has not or will not be allowed, on the
6 sales price from the sale of equipment by the state department
7 of transportation, or on the sales price from the sale or use
8 of natural gas, natural gas service, electricity, or electric
9 service in a city or county where the sales price from the sale
10 of natural gas or electric energy is subject to a franchise
11 fee or user fee during the period the franchise or user fee
12 is imposed. A local sales and services tax is applicable
13 to transactions within ~~those incorporated and~~ the city or
14 unincorporated areas area of the county where it is imposed and
15 shall be collected by all persons required to collect state
16 sales taxes. However, a local sales and services tax is not
17 applicable to transactions of a retailer holding a retail sales
18 tax permit at a place of business, as defined in section 423.1,
19 if the retailer's place of business is located in part within
20 a city or unincorporated area of the county where the tax is
21 not imposed. ~~All cities contiguous to each other shall be~~
22 ~~treated as part of one incorporated area and the tax would be~~
23 ~~imposed in each of those contiguous cities only if the majority~~
24 ~~of those voting in the total area covered by the contiguous~~
25 ~~cities favors its imposition. In the case of a local sales and~~
26 ~~services tax submitted to the registered voters of two or more~~
27 ~~contiguous counties as provided in section 423B.1, subsection~~
28 ~~4, paragraph "c", all cities contiguous to each other shall be~~
29 ~~treated as part of one incorporated area, even if the corporate~~
30 ~~boundaries of one or more of the cities include areas of more~~
31 ~~than one county, and the tax shall be imposed in each of those~~
32 ~~contiguous cities only if a majority of those voting on the tax~~
33 ~~in the total area covered by the contiguous cities favored its~~
34 ~~imposition.~~

35 2. The amount of the sale, for purposes of determining the

1 amount of the local sales and services tax, does not include
2 the amount of any state sales tax.

3 3. A tax permit other than the state sales tax permit
4 required under section 423.36 shall not be required by local
5 authorities.

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

20 Sec. 12. Section 423B.6, subsection 1, paragraphs b and c,
21 Code 2014, are amended to read as follows:

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

30 *c.* The imposition of ~~or a rate change for~~ a local sales and
31 services tax shall not be applied to purchases from a printed
32 catalog wherein a purchaser computes the local tax based on
33 rates published in the catalog unless a minimum of one hundred
34 twenty days' notice of the imposition ~~or rate change~~ has been
35 given to the seller from the catalog and the first day of a

1 calendar quarter has occurred on or after the one hundred
2 twentieth day.

3 Sec. 13. Section 423B.6, subsection 2, paragraph b, Code
4 2014, is amended to read as follows:

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

22 Sec. 14. Section 423B.6, subsection 3, paragraph b, Code
23 2014, is amended to read as follows:

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

29 Sec. 15. Section 423B.7, subsection 1, Code 2014, is amended
30 to read as follows:

31 1. *a.* Except as provided in ~~paragraph~~ paragraphs "b" and
32 "c", the director shall credit the local sales and services
33 tax receipts and interest and penalties ~~from a county imposed~~
34 ~~tax~~ to the county's account in the local sales and services
35 tax fund ~~and from a city imposed tax under section 423B.1,~~

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

7 ~~b. Notwithstanding paragraph "a", the~~ The director shall
8 credit the designated amount of the increase in local sales
9 and services tax receipts, as computed in section 423B.10,
10 collected in an urban renewal area of an eligible city that has
11 adopted an ordinance pursuant to section 423B.10, subsection
12 2, into a special city account in the local sales and services
13 tax fund.

14 c. The director shall credit the local sales and services
15 tax receipts and interest and penalties from a city-imposed tax
16 under section 423B.1, subsection 2, to the city's account in
17 the local sales and services tax fund.

18 Sec. 16. Section 423B.8, subsection 1, paragraph a, Code
19 2014, is amended to read as follows:

20 a. The goods, wares, or merchandise are incorporated into
21 an improvement to real estate in fulfillment of a written
22 contract fully executed prior to the date of the imposition ~~or~~
23 ~~increase in rate~~ of a local sales and services tax under this
24 chapter. The refund shall not apply to equipment transferred
25 in fulfillment of a mixed construction contract.

26 Sec. 17. Section 423B.10, subsection 1, paragraph b, Code
27 2014, is amended to read as follows:

28 b. "*Eligible city*" means a city in which a local sales and
29 services tax imposed by the city or county applies ~~or a city~~
30 ~~described in section 423B.1, subsection 2, paragraph "a",~~ and in
31 which an urban renewal area has been designated.

32 Sec. 18. IMPLEMENTATION. This Act shall not affect the
33 imposition of local option taxes in effect on the effective
34 date of this Act and such taxes shall continue to be imposed
35 until their repeal pursuant to chapter 423B. The law in effect

1 at the time of the repeal governs the repeal of the local
2 option taxes.