



House of Representatives

General Assembly

File No. 680

February Session, 2008

Substitute House Bill No. 5844

House of Representatives, April 17, 2008

The Committee on Finance, Revenue and Bonding reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING A MUNICIPAL SHARE OF THE HOTEL OCCUPANCY TAX, DEDICATING CERTAIN MONEYS TO FUND THE STATE PAYMENT IN LIEU OF TAXES (PILOT) PROGRAMS AND ESTABLISHING A SALES TAX ON DELIVERY SERVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) Notwithstanding any
2 provision of the general statutes, the Commissioner of Revenue
3 Services shall segregate one-half of the revenues received from the tax
4 on sales within the meaning of subparagraph (H) of subdivision (2) of
5 subsection (a) of section 12-407 of the 2008 supplement to the general
6 statutes, by any hotel or lodging house. Such segregated revenues shall
7 be allocated to the municipality in which such hotel or lodging house
8 is located.

9 Sec. 2. (NEW) (*Effective from passage*) (a) There is established an
10 account to be known as the "PILOT Reserve account" which shall be a
11 separate, nonlapsing account within the General Fund. Moneys in the

12 account shall be expended by the Secretary of the Office of Policy and
13 Management for the purpose of funding the programs providing state
14 grants in lieu of taxes pursuant to sections 12-19a and 12-20a of the
15 general statutes. If said account does not receive the amount of funds
16 necessary to fully fund said programs, said secretary shall distribute
17 the available funds proportionately to each program.

18 (b) On and after July 1, 2008, all moneys received or collected by the
19 state or any officer thereof on account of, or derived from,
20 subparagraph (GG) of subdivision (37) of subsection (a) of section 12-
21 407 of the general statutes, as amended by this act, shall be paid
22 promptly to the State Treasurer and credited to the account established
23 pursuant to this section.

24 (c) On or before February 15, 2009, and annually thereafter, the chief
25 elected official of each municipality receiving funds from the account
26 established pursuant to subsection (a) of this section shall provide a
27 report to the joint standing committee of the General Assembly having
28 cognizance over finance, revenue and bonding regarding the funds
29 received, including, but not limited to, the impact of such funds upon
30 such municipality's budget and any resulting adjustments to such
31 municipality's mill rate or property tax levy.

32 Sec. 3. Section 3-69a of the 2008 supplement to the general statutes is
33 repealed and the following is substituted in lieu thereof (*Effective from*
34 *passage*):

35 (a) (1) For the fiscal year ending June 30, 2005, the funds received
36 under this part, excluding the proceeds from the sale of property
37 deposited in the Special Abandoned Property Fund in accordance with
38 section 3-62h, shall be deposited in the General Fund.

39 (2) For the fiscal year ending June 30, 2006, and each fiscal year
40 thereafter, a portion of the funds received under this part shall, upon
41 deposit in the General Fund, be credited to the Citizens' Election Fund
42 established in section 9-701 of the 2008 supplement to the general
43 statutes as follows: (A) For the fiscal year ending June 30, 2006,

44 seventeen million dollars, (B) for the fiscal year ending June 30, 2007,
45 sixteen million dollars, (C) for the fiscal year ending June 30, 2008,
46 seventeen million three hundred thousand dollars, and (D) for the
47 fiscal year ending June 30, 2009, and each fiscal year thereafter, the
48 amount deposited for the preceding fiscal year, adjusted in accordance
49 with any change in the consumer price index for all urban consumers
50 for such preceding fiscal year, as published by the United States
51 Department of Labor, Bureau of Labor Statistics. The State Treasurer
52 shall determine such adjusted amount not later than thirty days after
53 the end of such preceding fiscal year.

54 (3) For the fiscal year ending June 30, 2008, and each fiscal year
55 thereafter, a portion of the funds received under this part shall, upon
56 deposit in the General Fund, be credited to the PILOT Reserve account
57 established in section 2 of this act. Such portion shall be in the amount
58 necessary, after the requirements of section 3-62h and of subdivision
59 (2) of this subsection are met, to fully fund the programs providing
60 state grants in lieu of taxes established pursuant to sections 12-19a and
61 12-20a.

62 (b) All costs incurred in the administration of this part, except as
63 provided in section 3-62h and subsection (a) of this section, and all
64 claims allowed under this part shall be paid from the General Fund.

65 Sec. 4. Subdivision (37) of subsection (a) of section 12-407 of the 2008
66 supplement to the general statutes is repealed and the following is
67 substituted in lieu thereof (*Effective July 1, 2008, and applicable to sales*
68 *occurring on and after said date*):

69 (37) "Services" for purposes of subdivision (2) of this subsection,
70 means:

71 (A) Computer and data processing services, including, but not
72 limited to, time, programming, code writing, modification of existing
73 programs, feasibility studies and installation and implementation of
74 software programs and systems even where such services are rendered
75 in connection with the development, creation or production of canned

76 or custom software or the license of custom software, and exclusive of
77 services rendered in connection with the creation, development
78 hosting or maintenance of all or part of a web site which is part of the
79 graphical, hypertext portion of the Internet, commonly referred to as
80 the World Wide Web;

81 (B) Credit information and reporting services;

82 (C) Services by employment agencies and agencies providing
83 personnel services;

84 (D) Private investigation, protection, patrol work, watchman and
85 armored car services, exclusive of (i) services of off-duty police officers
86 and off-duty firefighters, and (ii) coin and currency services provided
87 to a financial services company by or through another financial
88 services company. For purposes of this subparagraph, "financial
89 services company" has the same meaning as provided under
90 subparagraphs (A) to (H), inclusive, of subdivision (6) of subsection (a)
91 of section 12-218b;

92 (E) Painting and lettering services;

93 (F) Photographic studio services;

94 (G) Telephone answering services;

95 (H) Stenographic services;

96 (I) Services to industrial, commercial or income-producing real
97 property, including, but not limited to, such services as management,
98 electrical, plumbing, painting and carpentry and excluding any such
99 services rendered in the voluntary evaluation, prevention, treatment,
100 containment or removal of hazardous waste, as defined in section
101 22a-115, or other contaminants of air, water or soil, provided
102 income-producing property shall not include property used
103 exclusively for residential purposes in which the owner resides and
104 which contains no more than three dwelling units, or a housing facility
105 for low and moderate income families and persons owned or operated

106 by a nonprofit housing organization, as defined in subdivision (29) of
107 section 12-412 of the 2008 supplement to the general statutes;

108 (J) Business analysis, management, management consulting and
109 public relations services, excluding (i) any environmental consulting
110 services, (ii) any training services provided by an institution of higher
111 education licensed or accredited by the Board of Governors of Higher
112 Education pursuant to section 10a-34 of the 2008 supplement to the
113 general statutes, and (iii) on and after January 1, 1994, any business
114 analysis, management, management consulting and public relations
115 services when such services are rendered in connection with an aircraft
116 leased or owned by a certificated air carrier or in connection with an
117 aircraft which has a maximum certificated take-off weight of six
118 thousand pounds or more;

119 (K) Services providing "piped-in" music to business or professional
120 establishments;

121 (L) Flight instruction and chartering services by a certificated air
122 carrier on an aircraft, the use of which for such purposes, but for the
123 provisions of subdivision (4) of section 12-410 and subdivision (12) of
124 section 12-411, would be deemed a retail sale and a taxable storage or
125 use, respectively, of such aircraft by such carrier;

126 (M) Motor vehicle repair services, including any type of repair,
127 painting or replacement related to the body or any of the operating
128 parts of a motor vehicle;

129 (N) Motor vehicle parking, including the provision of space, other
130 than metered space, in a lot having thirty or more spaces, excluding (i)
131 space in a seasonal parking lot provided by a person who is exempt
132 from taxation under this chapter pursuant to subdivision (1), (5) or (8)
133 of section 12-412 of the 2008 supplement to the general statutes, (ii)
134 space in a parking lot owned or leased under the terms of a lease of not
135 less than ten years' duration and operated by an employer for the
136 exclusive use of its employees, (iii) valet parking provided at any
137 airport, and (iv) space in municipally-operated railroad parking

138 facilities in municipalities located within an area of the state
139 designated as a severe nonattainment area for ozone under the federal
140 Clean Air Act or space in a railroad parking facility in a municipality
141 located within an area of the state designated as a severe
142 nonattainment area for ozone under the federal Clean Air Act owned
143 or operated by the state on or after April 1, 2000;

144 (O) Radio or television repair services;

145 (P) Furniture reupholstering and repair services;

146 (Q) Repair services to any electrical or electronic device, including,
147 but not limited to, equipment used for purposes of refrigeration or
148 air-conditioning;

149 (R) Lobbying or consulting services for purposes of representing the
150 interests of a client in relation to the functions of any governmental
151 entity or instrumentality;

152 (S) Services of the agent of any person in relation to the sale of any
153 item of tangible personal property for such person, exclusive of the
154 services of a consignee selling works of art, as defined in subsection (b)
155 of section 12-376c, or articles of clothing or footwear intended to be
156 worn on or about the human body other than (i) any special clothing
157 or footwear primarily designed for athletic activity or protective use
158 and which is not normally worn except when used for the athletic
159 activity or protective use for which it was designed, and (ii) jewelry,
160 handbags, luggage, umbrellas, wallets, watches and similar items
161 carried on or about the human body but not worn on the body in the
162 manner characteristic of clothing intended for exemption under
163 subdivision (47) of section 12-412 of the 2008 supplement to the general
164 statutes, under consignment, exclusive of services provided by an
165 auctioneer;

166 (T) Locksmith services;

167 (U) Advertising or public relations services, including layout, art
168 direction, graphic design, mechanical preparation or production

169 supervision, not related to the development of media advertising or
170 cooperative direct mail advertising;

171 (V) Landscaping and horticulture services;

172 (W) Window cleaning services;

173 (X) Maintenance services;

174 (Y) Janitorial services;

175 (Z) Exterminating services;

176 (AA) Swimming pool cleaning and maintenance services;

177 (BB) Miscellaneous personal services included in industry group 729
178 in the Standard Industrial Classification Manual, United States Office
179 of Management and Budget, 1987 edition, or U.S. industry 532220,
180 812191, 812199 or 812990 in the North American Industrial
181 Classification System United States Manual, United States Office of
182 Management and Budget, 1997 edition, exclusive of (i) services
183 rendered by massage therapists licensed pursuant to chapter 384a, and
184 (ii) services rendered by an electrologist licensed pursuant to chapter
185 388;

186 (CC) Any repair or maintenance service to any item of tangible
187 personal property including any contract of warranty or service related
188 to any such item;

189 (DD) Business analysis, management or managing consulting
190 services rendered by a general partner, or an affiliate thereof, to a
191 limited partnership, provided (i) the general partner, or an affiliate
192 thereof, is compensated for the rendition of such services other than
193 through a distributive share of partnership profits or an annual
194 percentage of partnership capital or assets established in the limited
195 partnership's offering statement, and (ii) the general partner, or an
196 affiliate thereof, offers such services to others, including any other
197 partnership. As used in this subparagraph "an affiliate of a general

198 partner" means an entity which is directly or indirectly owned fifty per
199 cent or more in common with a general partner;

200 (EE) Notwithstanding the provisions of section 12-412 of the 2008
201 supplement to the general statutes, except subdivision (87) of said
202 section 12-412 of the 2008 supplement to the general statutes, patient
203 care services, as defined in subdivision (29) of this subsection by a
204 hospital, except that "sale" and "selling" does not include such patient
205 care services for which payment is received by the hospital during the
206 period commencing July 1, 2001, and ending June 30, 2003;

207 (FF) Health and athletic club services, exclusive of (i) any such
208 services provided without any additional charge which are included in
209 any dues or initiation fees paid to any such club, which dues or fees
210 are subject to tax under section 12-543, (ii) any such services provided
211 by a municipality or an organization that is described in Section 501(c)
212 of the Internal Revenue Code of 1986, or any subsequent
213 corresponding internal revenue code of the United States, as from time
214 to time amended, and (iii) yoga instruction provided at a yoga studio;

215 (GG) Delivery services, where such services are performed by a
216 company included in industry group 492 or 484210 under the North
217 American Industry Classification System, United States Manual, 1997
218 edition, other than delivery services on which a tax is paid or an
219 exemption claimed pursuant to subdivision (8) or (9) of this subsection.
220 The provisions of this subparagraph shall not apply to delivery
221 services for items that are exempt from taxation pursuant to
222 subdivision (4), (13), (19), (46) or (57) of section 12-412.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	3-69a

Sec. 4	<i>July 1, 2008, and applicable to sales occurring on and after said date</i>	12-407(a)(37)
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FIN *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Department of Revenue Services	GF - Revenue Loss	Up to \$106.7 million	Up to \$84 million
Department of Revenue Services	GF - Revenue Loss	Indeterminate	Indeterminate
Department of Revenue Services	GF - Cost	438,000	438,000
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	82,420	190,548

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
All Municipalities	Revenue Gain	Up to \$106.7 million	Up to \$84 million
All Municipalities	Revenue Gain	Indeterminate	Indeterminate

Explanation

The bill does the following:

It transfers one half of the revenue collected by the state from the 12% Sales Tax on hotel rooms to municipalities beginning in FY 09

It creates a PILOT Reserve Account to fully fund PILOT payments to municipalities beginning in FY 09. The account is funded with: (1) a sales tax on delivery and moving services and (2) the transfer of revenue collected from abandoned property.

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State

The table below summarizes the anticipated state and municipal impact of the bill.

Anticipated State and Municipal Revenue Impact of sHB 5844				
<u>Description</u>	(\$ millions)			
	State Impact		Municipal Impact	
	<u>FY 09</u>	<u>FY 10 & after</u>	<u>FY 09</u>	<u>FY 10 & after</u>
Sec. 1: Hotel Tax Revenue Transfer	-\$43.0	-\$44.0	\$43.0	\$44.0
<u>Funding for the PILOT Reserve Account:</u>				
Sec. 3: Unclaimed Property Transfer	Up to -63.7	Up to -40.0	Up to 63.7	Up to 40.0
Sec 4: Sales Tax on Delivery Services	Impact cannot be determined			

Section 1: The 12% Sales Tax on hotel rooms is projected to generate approximately \$86 million in FY 09 and \$88.0 million in FY 10 and succeeding years. Transferring half of this amount to municipalities will result in a General Fund revenue loss/municipal revenue gain of \$43 million in FY 09 and \$44 million in FY 10 and succeeding years.

Section 3 requires the annual transfer of revenue from abandoned property to the newly created PILOT Reserve Account if the revenue from the sales tax on delivery and moving services (see Section 4) is insufficient to fully fund the account. This could result in a General Fund revenue loss of up \$63.7 million² in FY 09 and \$40 million in FY 10 and after, depending on the amount of revenue generated from the tax on delivery and moving services.

Section 4 imposes the 6% sales and use tax on any delivery and moving services that are not currently subject to the tax. The revenue

Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

² The amount of revenue transferred to the General Fund from abandoned property (escheats) is estimated to be \$85 million in FY 09 and \$40 million in FY 10 and succeeding years. The FY 09 figure reflects the one-time sale of an estimated \$45 million in escheated securities that are currently held by the Unclaimed Property Fund.

gain from this provision cannot be determined because no data is available on: (1) the amount of current sales tax collections that are attributable to delivery and moving charges when they are included in an item's overall sales price or (2) the amount of revenue that would be generated from currently untaxed delivery and moving services. However, it is anticipated that it would probably be significant because of the large number of transactions related to the delivery of letters and documents that are currently not subject to the tax.

The bill results in a revenue increase to municipalities, as the bill establishes the PILOT Reserve Account to fully fund the State Owned PILOT and the Private College and Hospital PILOT. In FY 09, based on the Appropriations Committee budget, sHB 5021, the State Owned PILOT is under funded by \$24.15 million and the Private College and Hospital PILOT is under funded by \$39.56, for a combined FY 09 under funding of \$63.71 million.

There would be an annual cost to the Department of Revenue Services (DRS) of \$438,000 for operational costs and to hire five additional employees to administer the provisions of the bill.

There would also be a cost to the Comptroller's Office of \$82,420 in FY 09 and \$190,548 in FY 10 for fringe benefits associated with the new positions.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5844*****AN ACT CONCERNING A MUNICIPAL SHARE OF THE HOTEL OCCUPANCY TAX, DEDICATING CERTAIN MONEYS TO FUND THE STATE PAYMENT IN LIEU OF TAXES (PILOT) PROGRAMS AND ESTABLISHING A SALES TAX ON DELIVERY SERVICES.*****SUMMARY:**

This bill imposes the 6% sales tax on charges for delivery services provided by messenger, courier, and moving companies. With some exceptions, the tax applies to charges by such companies for (1) intercity or local delivery of parcels, letters, documents, or other items and (2) local or long-distance moving of used household and office furniture and goods.

The bill establishes a Payment in Lieu of Taxes (PILOT) Reserve Account within the General Fund and requires money in the account to be used to fully fund the state PILOT grants to towns for tax-exempt state and college and hospital property. The bill dedicates to the account (1) all the revenue from the delivery services tax plus (2) enough of the proceeds from sale of abandoned property to fully fund the PILOT grants. Abandoned property proceeds must be allocated to the PILOT Reserve Account only to the extent that they exceed amounts reserved for the Citizen's Election Fund and the Special Abandoned Property Fund (see BACKGROUND). Chief elected officials of municipalities receiving money from the account must report annually to the Finance, Revenue and Bonding Committee on its effect on local property taxes.

Finally, the bill requires the state to return one-half of the gross revenue from the 12% hotel room occupancy tax to the municipalities where the hotels that collected the tax are located.

EFFECTIVE DATE: Upon passage, except for the tax on delivery services, which takes effect July 1, 2008 and applies to sales of such services occurring on or after that date.

§ 4 — SALES TAX ON DELIVERY SERVICES

By law, delivery charges imposed by a retailer must be included in the taxable sale price regardless of whether they are separately stated on the customer's bill and regardless of whether the retailer itself provides the shipping or the retailer provides it through a third party. A retailer is not required to collect tax on a delivery charge if the item being delivered is exempt from Connecticut sales tax (CGS § 12-407 (8) (A) (iii) and (9) (A) (iii)).

This bill requires covered delivery and moving companies to collect 6% sales tax on their charges. They must do so unless the retailer already charged for delivery and either paid Connecticut sales tax on the delivery charge as part of sale price of the item or claimed an exemption from doing so because the item is exempt.

The delivery service tax applies to companies providing (1) intercity or local delivery of parcels, letters, documents, or other items and (2) local or long-distance trucking of used household goods and furniture or used institutional or commercial furniture and equipment. These businesses are classified in industry groups 492 and 484210 in the *National Industrial Classification System (NAICS) Manual*, 1997 edition.

The bill exempts delivery of the following items from the delivery services tax:

1. prescription medicines, syringes, and needles;
2. food products other than (a) alcoholic beverages, beer, and wine, (b) soda and soft drinks, (c) nonprescription medicine, tonics, and dietary supplements, and (d) prepared meals;
3. oxygen, blood plasma, prostheses, custom-made wigs or hairpieces, hearing and vision aids, canes, crutches, walkers and

wheel chairs, vital life support equipment, apnea monitors, support hose, and repair or replacement parts for such items;

4. meals delivered to elderly, disabled, and other homebound people; and
5. items bought with federal food stamps.

§§ 2 & 3 — PILOT RESERVE ACCOUNT

The bill establishes a separate non-lapsing PILOT Reserve Account within the General Fund. It dedicates to the account (1) all the revenue the state receives from the bill's tax on delivery services plus (2) proceeds from the state treasurer's sale of abandoned property, that, over and above the amounts dedicated to the Citizen's Election Fund or the Special Abandoned Property Fund, are required to fully fund the PILOT grants.

The bill requires the Office of Policy and Management secretary to use the money in the account to fully fund statutory PILOT grants to towns for lost revenue from property tax exemptions for (1) colleges and hospitals and (2) state property. If the revenue dedicated to the account is insufficient to fully fund the PILOT grants in any year, the available revenue must be distributed proportionally to the two grants. Any excess revenue goes to the General Fund.

The chief elected official of each municipality that receives money from the account must report annually to the Finance, Revenue and Bonding Committee on the money it receives. The report must include the effect of the funds on the municipality's budget and any resulting mill rate or property tax levy adjustments. The first report is due February 15, 2009 and subsequent reports are due annually thereafter.

§ 1 — HOTEL TAX REVENUE SHARING

The bill requires the revenue services commissioner to set aside half of the gross revenue each hotel and lodging house receives from the 12% tax on room occupancy charges and return it to the municipality where the hotel or lodging house is located. The tax, which is imposed

in lieu of the regular 6% sales tax, applies to charges for renting a hotel or lodging house room for 30 consecutive days or less.

Under current law, all revenue from the tax goes to the General Fund.

BACKGROUND

PILOT Grants

By law, the state must reimburse local municipalities for 77% of their lost property tax revenue from tax-exempt colleges and hospitals and 45% of their lost revenue from state-owned property, Indian reservations, and municipally owned airports. Certain property, such as state correctional facilities, juvenile detention centers and certain state forest land, must be reimbursed at 100%. If the General Assembly fails to appropriate enough in any year to fully fund the PILOT grants, the law requires the grants to be proportionately reduced.

Citizen's Election Fund

The law allocates \$17.3 million of the proceeds from the state's sale of abandoned property to the Citizen's Election Fund for FY 08. For FY 09 and subsequent years, this amount must be adjusted for inflation. The Citizen's Election Fund is the public financing program for statewide and legislative office candidates.

Special Abandoned Property Fund

This fund was established to secure up to \$60 million in bonds the State Bond Commission was authorized to issue before June 30, 2005. The commission did not issue the bonds, so there is no need for abandoned property sale proceeds to be allocated to this fund.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 36 Nay 15 (04/02/2008)