



Rep. Michael J. Zalewski

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10100HB0826ham001

LRB101 00256 AWJ 58035 a

1 AMENDMENT TO HOUSE BILL 826

2 AMENDMENT NO. _____. Amend House Bill 826 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 adding Section 8-11-2.7 as follows:

6 (65 ILCS 5/8-11-2.7 new)

7 Sec. 8-11-2.7. Non-Home Rule Municipal Gas Use Tax.

8 (a) This Section may be cited as the Non-Home Rule
9 Municipal Gas Use Tax Law.

10 (b) As used in this Section:

11 "Delivering supplier" means a person engaged in the
12 business of delivering gas to another person for use or
13 consumption and not for resale, and who, in any case where more
14 than one person participates in the delivery of gas to a
15 specific purchaser, is the last of the suppliers engaged in
16 delivering the gas prior to its receipt by the purchaser.

1 "Delivering supplier maintaining a place of business in
2 this State" means any delivering supplier having or maintaining
3 within this State, directly or by a subsidiary, an office,
4 distribution facility, sales office, or other place of
5 business, or any employee, agent, or other representative
6 operating within this State under the authority of the
7 delivering supplier or the delivering supplier's subsidiary,
8 irrespective of whether the place of business or agent or other
9 representative is located in this State permanently or
10 temporarily, or whether the delivering supplier or the
11 delivering supplier's subsidiary is licensed to do business in
12 this State.

13 "Gas" means any gaseous fuel distributed through a pipeline
14 system.

15 "Person" means any natural individual, firm, trust,
16 estate, partnership, association, joint stock company, joint
17 adventure, corporation, or limited liability company, any
18 receiver, trustee, guardian, or other representative appointed
19 by order of any court, or any city, town, county, or other
20 political subdivision of this State.

21 "Purchase of out-of-state gas" means a transaction for the
22 purchase of gas from any supplier in a manner that does not
23 subject the seller of that gas to liability for a tax imposed
24 under paragraph 2 of Section 8-11-2 of the Illinois Municipal
25 Code.

26 "Purchase price" means the consideration paid for the

1 distribution, supply, furnishing, sale, transportation, or
2 delivery of gas to a person for use or consumption and not for
3 resale, and for all services directly related to the
4 production, transportation, or distribution of gas
5 distributed, supplied, furnished, sold, transmitted, or
6 delivered for use or consumption, including cash, services, and
7 property of every kind and nature. "Purchase price" does not
8 include consideration paid for:

9 (1) a charge for a dishonored check;

10 (2) a finance or credit charge, penalty, charge for
11 delayed payment, or discount for prompt payment;

12 (3) a charge for reconnection of service or for
13 replacement or relocation of facilities;

14 (4) an advance or contribution in aid of construction;

15 (5) repair, inspection, or servicing of equipment
16 located on customer premises;

17 (6) leasing or rental of equipment, the leasing or
18 rental of which is not necessary to furnishing, supplying,
19 or selling gas;

20 (7) a purchase by a purchaser if the supplier is
21 prohibited by a federal or State constitution, treaty,
22 convention, statute, or court decision from recovering the
23 related tax liability from such purchaser; or

24 (8) an amount added to a purchaser's bill because of
25 changes made pursuant to the tax imposed by the
26 municipality.

1 (c) The privilege of using or consuming gas acquired in a
2 purchase at retail and used or consumed within the corporate
3 limits of a non-home rule municipality may be taxed at rates
4 not to exceed the maximum rates, calculated on a monthly basis
5 for each purchaser, as provided in this Section.

6 (d) Beginning January 1, 2020, a non-home rule municipality
7 may impose upon the privilege of using in the municipality gas
8 obtained in a purchase of out-of-state gas at the rate per
9 therm established by the non-home rule municipality or 5% of
10 the purchase price for the billing period, whichever is the
11 lower rate. This tax rate is the self-assessing purchaser tax
12 rate. Beginning with bills issued by delivering suppliers on
13 and after January 1, 2020 to purchasers within a municipality
14 imposing a tax pursuant to this Section, purchasers may elect
15 an alternate tax rate per therm established by the non-home
16 rule municipality to be paid under the provisions of subsection
17 (e) to a delivering supplier maintaining a place of business in
18 this State. The non-home rule municipality shall establish this
19 alternate tax rate, not less than annually, a rate per therm
20 that would not exceed a tax imposed at the rate of 5% of the
21 gross receipts for the purchase price for the billing period.

22 (e) Beginning with bills issued on and after January 1,
23 2020, a delivering supplier maintaining a place of business in
24 this State shall collect from the purchasers within a
25 municipality imposing a tax pursuant to this Section who have
26 elected the alternate tax rate provided in subsection (d) the

1 tax that is imposed by the municipality at the alternate tax
2 rate. The tax imposed at the alternate tax rate shall, when
3 collected, be stated as a distinct and separate item apart from
4 the selling price of the gas. The tax collected by a delivering
5 supplier shall constitute a debt owed by that person to the
6 municipality imposing the tax. Upon receipt by a delivering
7 supplier of a copy of a certificate of registration issued to a
8 self-assessing purchaser under subsection (f), the delivering
9 supplier is relieved of the duty to collect the alternate tax
10 from that self-assessing purchaser beginning with bills issued
11 to that self-assessing purchaser 30 or more days after receipt
12 of the copy of that certificate of registration.

13 (f) Any purchaser who does not elect the alternate tax rate
14 to be paid to a delivering supplier shall register with the
15 municipality imposing the tax as a self-assessing purchaser and
16 pay the tax imposed directly to the municipality imposing the
17 tax at the self-assessing purchaser rate.

18 Application for a certificate of registration as a
19 self-assessing purchaser shall be made to the municipality
20 imposing the tax on forms furnished by the municipality and
21 shall contain any reasonable information that the municipality
22 requires. The self-assessing purchaser shall disclose the name
23 of the delivering supplier or suppliers who are delivering the
24 gas upon which the self-assessing purchaser will be paying tax
25 to the municipality imposing the tax.

26 Upon receipt of an application for a certificate of

1 registration in proper form, the municipality imposing the tax
2 shall issue to the applicant a certificate of registration as a
3 self-assessing purchaser. The applicant shall provide a copy of
4 the certificate of registration as a self-assessing purchaser
5 to the applicant's delivering supplier or suppliers. A
6 purchaser registering as a self-assessing purchaser may not
7 revoke the registration for at least one year after
8 registration.

9 (g) Except for purchasers who have chosen the alternate tax
10 rate to be paid to a delivering supplier maintaining a place of
11 business in this State, the tax imposed by the municipality
12 pursuant to subsection (d) shall be paid to the municipality
13 imposing the tax directly by each self-assessing purchaser that
14 is subject to the tax imposed by the municipality. Each
15 self-assessing purchaser shall, on or before the 15th day of
16 each month, make a return to the municipality imposing the tax
17 for the preceding calendar month, stating the following:

18 (1) the self-assessing purchaser's name and principal
19 address;

20 (2) the total number of therms used by the
21 self-assessing purchaser during the preceding calendar
22 month and upon the basis of which the tax is imposed;

23 (3) the purchase price of gas used by the
24 self-assessing purchaser during the preceding calendar
25 month and upon the basis of which the tax is imposed;

26 (4) amount of tax (computed upon items (2) and (3));

1 and

2 (5) any other reasonable information the municipality
3 imposing the tax may require.

4 (h) A delivering supplier maintaining a place of business
5 in this State who engages in the delivery of gas to customers
6 within a municipality imposing the tax in this State shall
7 register with the municipality imposing the tax. A delivering
8 supplier, if required to otherwise register pursuant to a tax
9 imposed under Section 8-11-2 of this Code, need not obtain an
10 additional certificate of registration under this Section, but
11 shall be deemed to be sufficiently registered by virtue of that
12 registration with the municipality imposing the tax.

13 Application for a certificate of registration shall be made
14 to the municipality imposing the tax on forms furnished by the
15 municipality and shall contain any reasonable information the
16 municipality may require. Upon receipt of a completed
17 application for a certificate of registration, the
18 municipality imposing the tax shall issue to the applicant a
19 certificate of registration. The municipality imposing the tax
20 may deny a certificate of registration to any applicant if the
21 applicant is in default for moneys due under this Section. A
22 person aggrieved by a decision of the municipality imposing the
23 tax under this subsection may, within 20 days after notice of
24 the decision, protest and request a hearing, whereupon the
25 municipality imposing the tax shall give notice to the person
26 of the time and place fixed for the hearing, shall hold a

1 hearing in conformity with the provisions of this Section, and
2 then issue its final administrative decision in the matter to
3 the person. In the absence of a protest within 20 days, the
4 municipality's decision shall become final without any further
5 determination being made or notice given.

6 (i) A delivering supplier who is required under subsection
7 (e) to collect the tax imposed by the municipality shall make a
8 return to the municipality imposing the tax on or before the
9 15th day of each month for the preceding calendar month stating
10 the following:

11 (1) the delivering supplier's name;

12 (2) the address of the delivering supplier's principal
13 place of business and the address of the principal place of
14 business (if that is a different address) from which the
15 delivering supplier engages in the business of delivering
16 gas to persons for use or consumption and not for resale;

17 (3) the total number of therms of gas delivered to
18 purchasers within a municipality imposing a tax pursuant to
19 this Section during the preceding calendar month and upon
20 the basis of which the tax is imposed;

21 (4) the amount of tax computed upon item (3); and

22 (5) any other reasonable information as the
23 municipality imposing the tax may require.

24 In making the return, the delivering supplier engaged in
25 the business of delivering gas to persons for use or
26 consumption and not for resale may use any reasonable method to

1 derive reportable therms from the delivering supplier's
2 billing and payment records.

3 Notwithstanding any other provision in this Section
4 concerning the time within which a delivering supplier may file
5 its return, in the case of a delivering supplier who ceases to
6 engage in a kind of business that makes it responsible for
7 filing returns with a municipality imposing a tax under this
8 Section, the delivering supplier shall file a final return
9 under this Section with the affected municipality not more than
10 one month after discontinuing a kind of business that makes it
11 responsible for filing returns with a municipality.

12 The delivering supplier making the return provided for in
13 this Section shall, at the time of making the return, pay to
14 the municipality the amount of tax imposed by the municipality.

15 Section 10. The Public Utilities Act is amended by changing
16 Section 9-221 as follows:

17 (220 ILCS 5/9-221) (from Ch. 111 2/3, par. 9-221)

18 Sec. 9-221. Whenever a municipality pursuant to Section
19 8-11-2 or 8-11-2.7 of the Illinois Municipal Code, as
20 heretofore and hereafter amended, imposes a tax on any public
21 utility, such utility may charge its customers, other than
22 customers who are certified business enterprises under
23 paragraph (e) of Section 8-11-2 of the Illinois Municipal Code
24 or are exempted from those taxes under paragraph (f) of that

1 Section, to the extent of such exemption and during the period
2 in which such exemption is in effect, in addition to any rate
3 authorized by this Act, an additional charge equal to the sum
4 of (1) an amount equal to such municipal tax, or any part
5 thereof (2) 3% of such tax, or any part thereof, as the case
6 may be, to cover costs of accounting, and (3) an amount equal
7 to the increase in taxes and other payments to governmental
8 bodies resulting from the amount of such additional charge.
9 Such utility shall file with the Commission a true and correct
10 copy of the municipal ordinance imposing such tax; and also
11 shall file with the Commission a supplemental schedule
12 applicable to such municipality which shall specify such
13 additional charge and which shall become effective upon filing
14 without further notice. Such additional charge shall be shown
15 separately on the utility bill to each customer. The Commission
16 shall have power to investigate whether or not such
17 supplemental schedule correctly specifies such additional
18 charge, but shall have no power to suspend such supplemental
19 schedule. If the Commission finds, after a hearing, that such
20 supplemental schedule does not correctly specify such
21 additional charge, it shall by order require a refund to the
22 appropriate customers of the excess, if any, with interest, in
23 such manner as it shall deem just and reasonable, and in and by
24 such order shall require the utility to file an amended
25 supplemental schedule corresponding to the finding and order of
26 the Commission.

1 (Source: P.A. 87-895; 88-132.)

2 Section 99. Effective date. This Act takes effect January
3 1, 2020."