

SB0214



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0214

Introduced 1/31/2019, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-2.7 new

Amends the Illinois Municipal Code. Creates the Municipal Gas Use Tax Law. Provides that beginning January 1, 2020, a municipality may impose a self-assessing purchaser tax rate of the lower of 2.4 cents per therm or 5% of the purchase price for the privilege of using in the municipality gas obtained in a purchase of out-of-state gas. Provides that, in the alternative, a purchaser may elect for a tax of 2.4 cents per therm that a delivering supplier maintaining a place of business in the State collects from the purchaser. Provides for registration requirements for self-assessing purchasers and delivering suppliers. Includes procedures for self-assessing purchasers and delivering suppliers to submit returns and to remit the tax to the Department of Revenue. Effective January 1, 2020.

LRB101 06691 HLH 51718 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

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

7 Sec. 8-11-2.7. Municipal Gas Use Tax.

8 (a) This Section may be cited as the Municipal Gas Use Tax
9 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.

17 "Delivering supplier maintaining a place of business in
18 this State" means any delivering supplier having or maintaining
19 within this State, directly or by a subsidiary, an office,
20 distribution facility, sales office, or other place of
21 business, or any employee, agent, or other representative
22 operating within this State under the authority of the
23 delivering supplier or the delivering supplier's subsidiary,

1 irrespective of whether the place of business or agent or other
2 representative is located in this State permanently or
3 temporarily, or whether the delivering supplier or the
4 delivering supplier's subsidiary is licensed to do business in
5 this State.

6 "Department" means the Department of Revenue.

7 "Gas" means any gaseous fuel distributed through a pipeline
8 system.

9 "Person" means any natural individual, firm, trust,
10 estate, partnership, association, joint stock company, joint
11 adventure, corporation, or limited liability company, any
12 receiver, trustee, guardian, or other representative appointed
13 by order of any court, or any city, town, county, or other
14 political subdivision of this State.

15 "Purchase of out-of-State gas" means a transaction for the
16 purchase of gas from any supplier in a manner that does not
17 subject the seller of that gas to liability under the Gas
18 Revenue Tax Act.

19 "Purchase price" means the consideration paid for the
20 distribution, supply, furnishing, sale, transportation, or
21 delivery of gas to a person for use or consumption and not for
22 resale, and for all services directly related to the
23 production, transportation, or distribution of gas
24 distributed, supplied, furnished, sold, transmitted, or
25 delivered for use or consumption, including cash, services, and
26 property of every kind and nature. "Purchase price" does not

1 include consideration paid for:

2 (1) a charge for a dishonored check;

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

5 (3) a charge for reconnection of service or for
6 replacement or relocation of facilities;

7 (4) an advance or contribution in aid of construction.

8 (5) repair, inspection, or servicing of equipment
9 located on customer premises;

10 (6) leasing or rental of equipment, the leasing or
11 rental of which is not necessary to furnishing, supplying,
12 or selling gas;

13 (7) a purchase by a purchaser if the supplier is
14 prohibited by a federal or State constitution, treaty,
15 convention, statute, or court decision from recovering the
16 related tax liability from such purchaser; or

17 (8) an amount added to a purchaser's bill because of
18 changes made pursuant to the tax imposed by the
19 municipality.

20 (c) The privilege of using or consuming gas acquired in a
21 purchase at retail and used or consumed within the corporate
22 limits of a municipality may be taxed at rates not to exceed
23 the maximum rates, calculated on a monthly basis for each
24 purchaser, as provided in this Section.

25 (d) Beginning January 1, 2020, a municipality may impose
26 upon the privilege of using in the municipality gas obtained in

1 a purchase of out-of-state gas at the rate of 2.4 cents per
2 therm or 5% of the purchase price for the billing period,
3 whichever is the lower rate. This tax rate is the
4 self-assessing purchaser tax rate. Beginning with bills issued
5 by delivering suppliers on and after January 1, 2020 to
6 purchasers within a municipality imposing a tax pursuant to
7 this Section, purchasers may elect an alternative tax rate of
8 2.4 cents per therm to be paid under the provisions of
9 subsection (e) to a delivering supplier maintaining a place of
10 business in this State. This tax rate is the alternate tax
11 rate.

12 (e) Beginning with bills issued on and after January 1,
13 2020, a delivering supplier maintaining a place of business in
14 this State shall collect from the purchasers within a
15 municipality imposing a tax pursuant to this Section who have
16 elected the alternate tax rate provided in subsection (d) the
17 tax that is imposed by the municipality at the alternate 2.4
18 cents per therm rate. The tax imposed at the alternate tax rate
19 shall, when collected, be stated as a distinct and separate
20 item apart from the selling price of the gas. The tax collected
21 by a delivering supplier shall constitute a debt owed by that
22 person to the municipality imposing the tax. Upon receipt by a
23 delivering supplier of a copy of a certificate of registration
24 issued to a self-assessing purchaser under subsection (f), the
25 delivering supplier is relieved of the duty to collect the
26 alternate tax from that self-assessing purchaser beginning

1 with bills issued to that self-assessing purchaser 30 or more
2 days after receipt of the copy of that certificate of
3 registration.

4 (f) Any purchaser who does not elect the alternate tax rate
5 to be paid to a delivering supplier shall register with the
6 Department as a self-assessing purchaser and pay the tax
7 imposed by subsection (d) directly to the Department at the
8 self-assessing purchaser rate.

9 Application for a certificate of registration as a
10 self-assessing purchaser shall be made to the Department on
11 forms furnished by the Department and shall contain any
12 reasonable information that the Department requires. The
13 self-assessing purchaser shall disclose the name of the
14 delivering supplier or suppliers who are delivering the gas
15 upon which the self-assessing purchaser will be paying tax to
16 the Department.

17 Upon receipt of an application for a certificate of
18 registration in proper form, the Department shall issue to the
19 applicant a certificate of registration as a self-assessing
20 purchaser. The applicant shall provide a copy of the
21 certificate of registration as a self-assessing purchaser to
22 the applicant's delivering supplier or suppliers. A purchaser
23 registering as a self-assessing purchaser may not revoke the
24 registration for at least one year after registration.

25 (g) Except for purchasers who have chosen the alternate tax
26 rate to be paid to a delivering supplier maintaining a place of

1 business in this State, the tax imposed by the municipality
2 pursuant to subsection (d) shall be paid to the Department
3 directly by each self-assessing purchaser that is subject to
4 the tax imposed by the municipality. Each self-assessing
5 purchaser shall, on or before the 15th day of each month, make
6 a return to the Department for the preceding calendar month,
7 stating the following:

8 (1) the self-assessing purchaser's name and principal
9 address;

10 (2) the total number of therms used by the
11 self-assessing purchaser during the preceding calendar
12 month and upon the basis of which the tax is imposed.

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

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

18 (5) any other reasonable information the Department
19 may require.

20 (h) A delivering supplier maintaining a place of business
21 in this State who engages in the delivery of gas in this State
22 shall register with the Department. A delivering supplier, if
23 required to otherwise register pursuant to a tax imposed under
24 Section 8-11-2 of this Code, need not obtain an additional
25 certificate of registration under this Section, but shall be
26 deemed to be sufficiently registered by virtue of that

1 registration with the Department.

2 Application for a certificate of registration shall be made
3 to the Department on forms furnished by the Department and
4 shall contain any reasonable information the Department may
5 require. Upon receipt of a completed application for a
6 certificate of registration, the Department shall issue to the
7 applicant a certificate of registration. The Department may
8 deny a certificate of registration to any applicant if the
9 applicant is in default for moneys due under this Section. A
10 person aggrieved by a decision of the Department under this
11 subsection may, within 20 days after notice of the decision,
12 protest and request a hearing, whereupon the Department shall
13 give notice to the person of the time and place fixed for the
14 hearing, shall hold a hearing in conformity with the provisions
15 of this Section, and then issue its final administrative
16 decision in the matter to the person. In the absence of a
17 protest within 20 days, the Department's decision shall become
18 final without any further determination being made or notice
19 given.

20 (i) A delivering supplier who is required under subsection
21 (e) to collect the tax imposed by the municipality shall make a
22 return to the Department on or before the 15th day of each
23 month for the preceding calendar month stating the following:

24 (1) the delivering supplier's name;

25 (2) the address of the delivering supplier's principal
26 place of business and the address of the principal place of

1 business (if that is a different address) from which the
2 delivering supplier engages in the business of delivering
3 gas to persons for use or consumption and not for resale;

4 (3) the total number of therms of gas delivered to
5 purchasers within a municipality imposing a tax pursuant to
6 this Section during the preceding calendar month and upon
7 the basis of which the tax is imposed;

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

9 (5) any other reasonable information as the Department
10 may require.

11 In making the return, the delivering supplier engaged in
12 the business of delivering gas to persons for use or
13 consumption and not for resale may use any reasonable method to
14 derive reportable therms from the delivering supplier's
15 billing and payment records.

16 Notwithstanding any other provision in this Section
17 concerning the time within which a delivering supplier may file
18 its return, in the case of a delivering supplier who ceases to
19 engage in a kind of business that makes it responsible for
20 filing returns with a municipality imposing a tax under this
21 Section, the delivering supplier shall file a final return
22 under this Section with the Department of the affected
23 municipality not more than one month after discontinuing a kind
24 of business that makes it responsible for filing returns with a
25 municipality.

26 The delivering supplier making the return provided for in

1 this Section shall, at the time of making the return, pay to
2 the Department the amount of tax imposed by the municipality.

3 Section 99. Effective date. This Act takes effect January
4 1, 2020.