



Sen. Laura M. Murphy

Filed: 5/31/2021

10200HB0731sam002

LRB102 14457 HLH 27449 a

1 AMENDMENT TO HOUSE BILL 731

2 AMENDMENT NO. _____. Amend House Bill 731, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Local Government Taxpayers' Bill of Rights
6 Act is amended by changing Section 30 as follows:

7 (50 ILCS 45/30)

8 Sec. 30. Statute of limitations. Units of local government
9 have an obligation to review tax returns in a timely manner and
10 issue any determination of tax due as promptly as possible so
11 that taxpayers may make timely corrections of future returns
12 and minimize any interest charges applied to tax
13 underpayments. Each unit of local government must provide
14 appropriate statutes of limitation for the determination and
15 assessment of taxes covered by this Act, provided, however,
16 that a statute of limitations may not exceed the following:

1 (1) For utility taxes, no ~~no~~ notice of determination
2 of tax due or assessment may be issued more than 7 4 years
3 after the end of the calendar year for which the return for
4 the period was filed or the end of the calendar year in
5 which the return for the period was due, whichever occurs
6 later. An audit or review that is timely performed under
7 Section 35 of this Act or Section 8-11-2.5 of the Illinois
8 Municipal Code shall toll this 7-year period.

9 (1.5) Except for utility taxes under paragraph (1), no
10 notice of determination of tax due or assessment may be
11 issued more than 4 years after the end of the calendar year
12 for which the return for the period was filed or the end of
13 the calendar year in which the return for the period was
14 due, whichever occurs later.

15 (2) Except for utility taxes under paragraph (1), if
16 ~~If~~ any tax return was not filed or if during any 4-year
17 period for which a notice of tax determination or
18 assessment may be issued by the unit of local government
19 the tax paid or remitted was less than 75% of the tax due
20 for that period, the statute of limitations shall be no
21 more than 6 years after the end of the calendar year in
22 which the return for the period was due or the end of the
23 calendar year in which the return for the period was
24 filed, whichever occurs later. In the event that a unit of
25 local government fails to provide a statute of
26 limitations, the maximum statutory period provided in this

1 Section applies.

2 (3) The changes to this Section made by this
3 amendatory Act of the 102nd General Assembly do not revive
4 any determination and assessment of tax due where the
5 statute of limitations has expired, but do extend the
6 current statute of limitations for the determination and
7 assessment of taxes that have not yet expired.

8 This Section does not place any limitation on a unit of
9 local government if a fraudulent tax return is filed.

10 (Source: P.A. 91-920, eff. 1-1-01.)

11 Section 10. The Illinois Municipal Code is amended by
12 changing Section 8-11-2.5 as follows:

13 (65 ILCS 5/8-11-2.5)

14 Sec. 8-11-2.5. Municipal tax review; requests for
15 information.

16 (a) If a municipality has imposed a tax under Section
17 8-11-2, then the municipality may conduct an audit of tax
18 receipts collected from the public utility that is subject to
19 the tax or that collects the tax from purchasers on behalf of
20 the municipality to determine whether the amount of tax that
21 was paid by the public utility was accurate.

22 (b) Not more than once annually ~~every 2 years~~, a
23 municipality that has imposed a tax under this Act may,
24 subject to the limitations and protections stated in ~~Section~~

1 ~~16 122 of the Public Utilities Act and in~~ the Local Government
2 Taxpayers' Bill of Rights Act, make a written request via
3 e-mail to an e-mail address provided by the utility for any
4 information from a utility in the format maintained by the
5 public utility in the ordinary course of its business that the
6 municipality reasonably requires in order to perform an audit
7 under subsection (a). The information that may be requested by
8 the municipality includes, without limitation:

9 (1) in an electronic format used by the public utility
10 in the ordinary course of its business, the
11 premises-specific and other information ~~database~~ used by
12 the public utility to determine the amount of tax due to
13 the municipality; provided, however, that a public utility
14 that is an electric utility may not provide
15 customer-specific information ~~, if the municipality has~~
16 ~~requested customer specific billing, usage, and load shape~~
17 ~~data from a public utility that is an electric utility and~~
18 ~~has not provided the electric utility with the verifiable~~
19 ~~authorization required by Section 16 122 of the Public~~
20 ~~Utilities Act, then the electric utility shall remove from~~
21 ~~the database all customer specific billing, usage, and~~
22 ~~load shape data before providing it to the municipality;~~
23 ~~and~~

24 (2) information related to each premises address that
25 the public utility's records indicate:

26 (A) is located in the municipality;

1 (B) is located in an adjacent unincorporated
2 municipality identified by the requesting
3 municipality; or

4 (C) is located in one of a list of zip codes
5 provided by the requesting municipality that include
6 areas within the requesting municipality's boundaries;
7 and

8 (3) for each address identified in paragraph (2):

9 (A) the premises address and zip code;

10 (B) classification of the premises as designated
11 by the public utility (e.g., residential, commercial,
12 industrial);

13 (C) first date of service; and

14 (D) for each month of service in the current year
15 (up to one month prior to the date of the request by
16 the municipality) and for the previous 10 calendar
17 years:

18 (i) the amount of the utility service used,
19 measured in gross therms, kilowatts, minutes, or
20 other units of measurement;

21 (ii) total taxable charges;

22 (iii) the total tax collected and remitted;

23 (iv) the municipal jurisdiction for tax
24 collection and remittance; and

25 (v) whether the customer is exempt from
26 municipal tax. ~~in a format used by the public~~

1 ~~utility in the ordinary course of its business,~~
2 ~~summary data, as needed by the municipality, to~~
3 ~~determine the unit consumption of utility services~~
4 ~~by providing the gross therms, kilowatts, minutes,~~
5 ~~or other units of measurement being taxed within~~
6 ~~the municipal jurisdiction and the gross revenues~~
7 ~~collected and the associated taxes assessed.~~

8 (c) Each public utility must provide the information
9 requested under subsection (b) within 90 days after the date
10 of the request.÷

11 ~~(1) 60 days after the date of the request if the~~
12 ~~population of the requesting municipality is 500,000 or~~
13 ~~less; or~~

14 ~~(2) 90 days after the date of the request if the~~
15 ~~population of the requesting municipality exceeds 500,000.~~

16 The time in which a public utility must provide the
17 information requested under subsection (b) may be extended by
18 an agreement between the municipality and the public utility.
19 If the public utility fails to respond to the request for
20 information with complete information within the timeline
21 established by this Section, the public utility shall be
22 liable to the municipality for a penalty of \$1,000 for each day
23 it fails to produce the requested information. Those penalties
24 shall be assessed by the municipality, but may be reduced or
25 vacated by the municipality or a court of competent
26 jurisdiction upon demonstration by the public utility, by

1 clear and convincing evidence, that the public utility's
2 failure to provide the requested information within the
3 timeline established by this Section resulted from excusable
4 neglect. ~~If a public utility receives, during a single month,~~
5 ~~information requests from more than 2 municipalities, or the~~
6 ~~aggregate population of the requesting municipalities is~~
7 ~~100,000 customers or more, the public utility is entitled to~~
8 ~~an additional 30 days to respond to those requests.~~

9 (d) If an audit by the municipality or its agents finds an
10 error by the public utility in the amount of taxes paid by the
11 public utility, then the municipality must notify the public
12 utility of the error. Any such notice must be issued pursuant
13 to Section 30 of the Local Government Taxpayers' Bill of
14 Rights Act or a lesser period of time from the date the tax was
15 due that may be specified in the municipal ordinance imposing
16 the tax. Upon such a notice, any audit shall be conducted
17 pursuant to Section 35 of the Local Government Taxpayers' Bill
18 of Rights Act subject to the timelines set forth in this
19 subsection (d). The public utility must submit a written
20 response within 60 days after the date the notice was
21 postmarked stating that it has corrected the error or stating
22 the reason that the error is inapplicable or inaccurate. The
23 municipality then has 60 days after the receipt of the public
24 utility's response to review and contest the conclusion of the
25 public utility. If the parties are unable to agree on the
26 disposition of the audit findings within 120 days after the

1 notification of the error to the public utility, then either
2 party may submit the matter for appeal as outlined in Section
3 40 of the Local Government Taxpayers' Bill of Rights Act. If
4 the appeals process does not produce a satisfactory result,
5 then either party may pursue the alleged error in a court of
6 competent jurisdiction. If the municipality prevails and
7 receives at least 50% of the relief requested in court, the
8 public utility is liable for the attorney's fees and costs of
9 the municipality.

10 (d-5) If a public utility is liable for any error or errors
11 in past tax payments cumulatively in excess of \$5,000 that
12 were unknown prior to an audit from the municipality, the
13 public utility shall reimburse the municipality for the cost
14 of the audit in addition to any interest and penalties
15 imposed.

16 (e) (Blank). ~~No public utility is liable for any error in~~
17 ~~past collections and payments that was unknown by it prior to~~
18 ~~the audit process unless (i) the error was due to negligence by~~
19 ~~the public utility in the collection or processing of required~~
20 ~~data and (ii) the municipality had not failed to respond in~~
21 ~~writing on an accurate and timely basis to any written request~~
22 ~~of the public utility to review and correct information used~~
23 ~~by the public utility to collect the municipality's tax if a~~
24 ~~diligent review of such information by the municipality~~
25 ~~reasonably could have been expected to discover such error.~~
26 ~~If, however, an error in past collections or payments resulted~~

1 ~~in a customer, who should not have owed a tax to any~~
2 ~~municipality, having paid a tax to a municipality, then the~~
3 ~~customer may, to the extent allowed by Section 9-252 of the~~
4 ~~Public Utilities Act, recover the tax from the public utility,~~
5 ~~and any amount so paid by the public utility may be deducted by~~
6 ~~that public utility from any taxes then or thereafter owed by~~
7 ~~the public utility to that municipality.~~

8 (e-5) The public utility shall be liable to the
9 municipality for all unpaid taxes due during the statutory
10 period set forth in Section 30 of the Local Government
11 Taxpayers' Bill of Rights Act, including taxes that the public
12 utility failed to properly bill to the customer. To the extent
13 that a public utility's errors in past tax collections and
14 payments relate to premises located in an area of the
15 municipality that was annexed on or after the effective date
16 of this amendatory Act of the 102nd General Assembly, however,
17 the public utility shall only be liable for such errors
18 beginning 60 days after the date that the municipality
19 provided the public utility notice of the annexation, provided
20 that the public utility provides municipalities with an e-mail
21 address to send annexation notices and the municipality
22 notified the utility within 60 days after the annexation. A
23 copy of the annexation ordinance and the map provided to the
24 recorder of the county under this Act sent to the e-mail
25 address provided by the public utility shall be deemed
26 sufficient notice, but other forms of notice may also be

1 sufficient.

2 (f) All premises-specific ~~account-specific~~ information
3 provided by a public utility under this Section may be used
4 only for the purpose of an audit of taxes conducted under this
5 Section and the enforcement of any related tax claim. All such
6 information must be held in strict confidence by the
7 municipality and its agents and may not be disclosed to the
8 public under the Freedom of Information Act or under any other
9 similar statutes allowing for or requiring public disclosure.

10 (g) The provisions of this Section shall not be construed
11 as diminishing or replacing any civil remedy available to a
12 municipality, taxpayer, or tax collector.

13 (g-5) As used in this Section:

14 "Customer-specific information" means the name, phone
15 number, e-mail address, and banking information of a customer,
16 but specifically excludes the customer's tax exempt status.

17 "Premises-specific information" means any information,
18 including billing, usage, and load shape data, associated with
19 a premises address but not with customer-specific information.

20 (h) This Section does not apply to any municipality having
21 a population greater than 1,000,000.

22 (Source: P.A. 96-1422, eff. 8-3-10.)

23 Section 15. The Public Utilities Act is amended by
24 changing Section 16-122 and by adding Section 9-224.1 as
25 follows:

1 (220 ILCS 5/9-224.1 new)

2 Sec. 9-224.1. Audit compliance; municipal fines. For the
3 purpose of determining any rate or charge, the Commission
4 shall not consider the following costs as an expense of any
5 public utility company, including any allocation of those
6 costs to the public utility from an affiliate or corporate
7 parent: (i) any court costs, attorney's fees, or other fees
8 incurred under subsection (d) of Section 8-11-2.5 of the
9 Illinois Municipal Code; or (ii) any penalties or interest
10 imposed by a municipality under Section 8-11-2.5 of the
11 Illinois Municipal Code.

12 (220 ILCS 5/16-122)

13 Sec. 16-122. Customer information.

14 (a) Upon the request of a retail customer, or a person who
15 presents verifiable authorization and is acting as the
16 customer's agent, and payment of a reasonable fee, electric
17 utilities shall provide to the customer or its authorized
18 agent the customer's billing and usage data.

19 (b) Upon request from any alternative retail electric
20 supplier and payment of a reasonable fee, an electric utility
21 serving retail customers in its service area shall make
22 available generic information concerning the usage, load shape
23 curve or other general characteristics of customers by rate
24 classification. Provided however, no customer specific

1 billing, usage or load shape data shall be provided under this
2 subsection unless authorization to provide such information is
3 provided by the customer pursuant to subsection (a) of this
4 Section.

5 (c) Upon request from a unit of local government and
6 payment of a reasonable fee, an electric utility shall make
7 available information concerning the usage, load shape curves,
8 and other characteristics of customers by customer
9 classification and location within the boundaries of the unit
10 of local government, however, no customer specific billing,
11 usage, or load shape data shall be provided under this
12 subsection unless authorization to provide that information is
13 provided by the customer or the unit of local government is
14 requesting the information for the purposes of an audit under
15 Section 8-11-2.5 of the Illinois Municipal Code.

16 (d) All such customer information shall be made available
17 in a timely fashion in an electronic format, if available.

18 (Source: P.A. 92-585, eff. 6-26-02.)".