



Rep. Anthony DeLuca

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1 AMENDMENT TO SENATE BILL 1794

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1794 by replacing  
3 everything after the enacting clause with the following:

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

6 (50 ILCS 45/30)

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

16 (1) For utility taxes, no ~~no~~ notice of determination

1 of tax due or assessment may be issued more than 7 4 years  
2 after the end of the calendar year for which the return for  
3 the period was filed or the end of the calendar year in  
4 which the return for the period was due, whichever occurs  
5 later. An audit or review that is timely performed under  
6 Section 35 of this Act or Section 8-11-2.5 of the Illinois  
7 Municipal Code shall toll this 7-year period.

8 (1.5) Except for utility taxes under paragraph (1), no  
9 notice of determination of tax due or assessment may be  
10 issued more than 4 years after the end of the calendar year  
11 for which the return for the period was filed or the end of  
12 the calendar year in which the return for the period was  
13 due, whichever occurs later.

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

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

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

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

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

12           (65 ILCS 5/8-11-2.5)

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

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

21           (b) Not more than once annually ~~every 2 years~~, a  
22           municipality that has imposed a tax under this Act may,  
23           subject to the limitations and protections stated in ~~Section~~  
24           ~~16-122 of the Public Utilities Act and in the Local Government~~

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

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

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

25 (A) is located in the municipality;

26 (B) is located in an adjacent unincorporated

1           municipality identified by the requesting  
2           municipality; or

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

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

8           (A) the premises address and zip code;

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

12          (C) first date of service; and

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

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

20               (ii) total taxable charges;

21               (iii) the total tax collected and remitted;

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

24               (v) whether the customer is exempt from  
25               municipal tax. ~~in a format used by the public~~  
26               utility in the ordinary course of its business,

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

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

10 ~~(1) 60 days after the date of the request if the~~  
11 ~~population of the requesting municipality is 500,000 or~~  
12 ~~less; or~~

13 ~~(2) 90 days after the date of the request if the~~  
14 ~~population of the requesting municipality exceeds 500,000.~~

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

1 failure to provide the requested information within the  
2 timeline established by this Section resulted from excusable  
3 neglect. For the purposes of this Section, for the period  
4 ending on December 31 of the year ending 3 years from the  
5 effective date of this amendatory Act of the 102nd General  
6 Assembly, a utility that did not have records retention beyond  
7 4 years shall not be penalized for records it does not have in  
8 its possession due to the change in the statute of limitations  
9 effectuated by the enactment of this amendatory Act of the  
10 102nd General Assembly. If a public utility receives, during a  
11 single month, information requests from more than 2  
12 municipalities, or the aggregate population of the requesting  
13 municipalities is 100,000 customers or more, the public  
14 utility is entitled to an additional 30 days to respond to  
15 those requests.

16 (d) If an audit by the municipality or its agents finds an  
17 error by the public utility in the amount of taxes paid by the  
18 public utility, then the municipality must notify the public  
19 utility of the error. Any such notice must be issued pursuant  
20 to Section 30 of the Local Government Taxpayers' Bill of  
21 Rights Act or a lesser period of time from the date the tax was  
22 due that may be specified in the municipal ordinance imposing  
23 the tax. Upon such a notice, any audit shall be conducted  
24 pursuant to Section 35 of the Local Government Taxpayers' Bill  
25 of Rights Act subject to the timelines set forth in this  
26 subsection (d). The public utility must submit a written

1 response within 60 days after the date the notice was  
2 postmarked stating that it has corrected the error or stating  
3 the reason that the error is inapplicable or inaccurate. The  
4 municipality then has 60 days after the receipt of the public  
5 utility's response to review and contest the conclusion of the  
6 public utility. If the parties are unable to agree on the  
7 disposition of the audit findings within 120 days after the  
8 notification of the error to the public utility, then either  
9 party may submit the matter for appeal as outlined in Section  
10 40 of the Local Government Taxpayers' Bill of Rights Act. If  
11 the appeals process does not produce a satisfactory result,  
12 then either party may pursue the alleged error in a court of  
13 competent jurisdiction. If the municipality prevails and  
14 receives at least 50% of the relief requested in court, the  
15 public utility is liable for the attorney's fees and costs of  
16 the municipality.

17 (d-5) If a public utility is liable for any error or errors  
18 in past tax payments cumulatively in excess of \$5,000 that  
19 were unknown to the municipality prior to an audit from the  
20 municipality, the public utility shall reimburse the  
21 municipality for the reasonable cost of the audit in addition  
22 to any interest and penalties imposed; provided, however that  
23 such additional reimbursement shall not exceed the sum of the  
24 taxes, interest, and penalties for which the public utility is  
25 liable.

26 (e) (Blank). ~~No public utility is liable for any error in~~



1 ~~past collections and payments that was unknown by it prior to~~  
2 ~~the audit process unless (i) the error was due to negligence by~~  
3 ~~the public utility in the collection or processing of required~~  
4 ~~data and (ii) the municipality had not failed to respond in~~  
5 ~~writing on an accurate and timely basis to any written request~~  
6 ~~of the public utility to review and correct information used~~  
7 ~~by the public utility to collect the municipality's tax if a~~  
8 ~~diligent review of such information by the municipality~~  
9 ~~reasonably could have been expected to discover such error.~~  
10 ~~If, however, an error in past collections or payments resulted~~  
11 ~~in a customer, who should not have owed a tax to any~~  
12 ~~municipality, having paid a tax to a municipality, then the~~  
13 ~~customer may, to the extent allowed by Section 9-252 of the~~  
14 ~~Public Utilities Act, recover the tax from the public utility,~~  
15 ~~and any amount so paid by the public utility may be deducted by~~  
16 ~~that public utility from any taxes then or thereafter owed by~~  
17 ~~the public utility to that municipality.~~

18 (e-5) The public utility shall be liable to the  
19 municipality for all unpaid taxes due during the statutory  
20 period set forth in Section 30 of the Local Government  
21 Taxpayers' Bill of Rights Act, including taxes that the public  
22 utility failed to properly bill to the customer. To the extent  
23 that a public utility's errors in past tax collections and  
24 payments relate to premises located in an area of the  
25 municipality that was annexed on or after the effective date  
26 of this amendatory Act of the 102nd General Assembly, however,

1 the public utility shall only be liable for such errors  
2 beginning 60 days after the date that the municipality  
3 provided the public utility notice of the annexation, provided  
4 that the public utility provides municipalities with an e-mail  
5 address to send annexation notices and the municipality  
6 notified the utility within 60 days after the annexation. A  
7 copy of the annexation ordinance and the map provided to the  
8 recorder of the county under this Act sent to the e-mail  
9 address provided by the public utility shall be deemed  
10 sufficient notice, but other forms of notice may also be  
11 sufficient. Upon mutual agreement, a utility and municipality  
12 may use a web portal in lieu of e-mail to receive notice of  
13 annexations and boundary changes.

14 (f) All premises-specific ~~account-specific~~ information  
15 provided by a public utility under this Section may be used  
16 only for the purpose of an audit of taxes conducted under this  
17 Section and the enforcement of any related tax claim. All such  
18 information must be held in strict confidence by the  
19 municipality and its agents and may not be disclosed to the  
20 public under the Freedom of Information Act or under any other  
21 similar statutes allowing for or requiring public disclosure.

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

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

26 "Customer-specific information" means the name, phone

1 number, e-mail address, and banking information of a customer,  
2 but specifically excludes the customer's tax exempt status.

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

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

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

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

12 (220 ILCS 5/9-224.1 new)

13 Sec. 9-224.1. Audit compliance; municipal fines. For the  
14 purpose of determining any rate or charge, the Commission  
15 shall not consider the following costs as an expense of any  
16 public utility company that serves more than 3,000,000 retail  
17 customers in Illinois, including any allocation of those costs  
18 to the public utility from an affiliate or corporate parent:

19 (i) any court costs, attorney's fees, or other fees incurred  
20 under subsection (d) of Section 8-11-2.5 of the Illinois  
21 Municipal Code; or (ii) any penalties or interest imposed by a  
22 municipality under Section 8-11-2.5 of the Illinois Municipal  
23 Code.

1 (220 ILCS 5/16-122)

2 Sec. 16-122. Customer information.

3 (a) Upon the request of a retail customer, or a person who  
4 presents verifiable authorization and is acting as the  
5 customer's agent, and payment of a reasonable fee, electric  
6 utilities shall provide to the customer or its authorized  
7 agent the customer's billing and usage data.

8 (b) Upon request from any alternative retail electric  
9 supplier and payment of a reasonable fee, an electric utility  
10 serving retail customers in its service area shall make  
11 available generic information concerning the usage, load shape  
12 curve or other general characteristics of customers by rate  
13 classification. Provided however, no customer specific  
14 billing, usage or load shape data shall be provided under this  
15 subsection unless authorization to provide such information is  
16 provided by the customer pursuant to subsection (a) of this  
17 Section.

18 (c) Upon request from a unit of local government and  
19 payment of a reasonable fee, an electric utility shall make  
20 available information concerning the usage, load shape curves,  
21 and other characteristics of customers by customer  
22 classification and location within the boundaries of the unit  
23 of local government, however, no customer specific billing,  
24 usage, or load shape data shall be provided under this  
25 subsection unless authorization to provide that information is  
26 provided by the customer or the unit of local government is

1 requesting the information for the purposes of an audit under  
2 Section 8-11-2.5 of the Illinois Municipal Code.

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

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