



Sen. Laura M. Murphy

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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. If a public utility receives, during a single month,  
4 information requests from more than 2 municipalities, or the  
5 aggregate population of the requesting municipalities is  
6 100,000 customers or more, the public utility is entitled to  
7 an additional 30 days to respond to those requests.

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

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

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

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



1 ~~municipality, having paid a tax to a municipality, then the~~  
2 ~~customer may, to the extent allowed by Section 9-252 of the~~  
3 ~~Public Utilities Act, recover the tax from the public utility,~~  
4 ~~and any amount so paid by the public utility may be deducted by~~  
5 ~~that public utility from any taxes then or thereafter owed by~~  
6 ~~the public utility to that municipality.~~

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

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

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

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

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

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

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

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

22 Section 15. The Public Utilities Act is amended by adding  
23 Section 9-224.1 as follows:

24 (220 ILCS 5/9-224.1 new)

1       Sec. 9-224.1. Audit compliance; municipal fines. For the  
2 purpose of determining any rate or charge, the Commission  
3 shall not consider the following costs as an expense of any  
4 public utility company, including any allocation of those  
5 costs to the public utility from an affiliate or corporate  
6 parent: (i) costs associated with an audit conducted under  
7 Section 8-11-2.5 of the Illinois Municipal Code; (ii) any  
8 court costs, attorney's fees, or other fees incurred under  
9 subsection (d) of Section 8-11-2.5 of the Illinois Municipal  
10 Code; (iii) unpaid utility taxes owed to a municipality  
11 (provided that the person delivering electricity shall be  
12 allowed credit for such tax related to deliveries of  
13 electricity the charges for which are written off as  
14 uncollectible); or (iv) any penalties or interest imposed by a  
15 municipality under Section 8-11-2.5 of the Illinois Municipal  
16 Code."