



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB3074

Introduced 1/20/2006, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

35 ILCS 200/23-15
35 ILCS 200/23-20
35 ILCS 200/23-35

Amends the Property Tax Code concerning tax objection procedures and hearings. Provides that, in property tax rate objection cases, refunds may be granted only to the extent that the property taxes objected to were unauthorized, were above the limit allowed by an applicable State statute or were otherwise in violation of an applicable State statute, or were used for expenditures that were illegal or without a valid public purpose. Provides that refunds made after the funds in the Protest Fund are exhausted shall be made by the collector from the next funds collected beginning in the second budget year after entry of the final order until full payment of the refund and interest thereon has been made (now, the refunds must be made from the next funds collected after the entry of the final order). Provides that, for the purposes of tax objections based on budget or appropriation ordinances, "municipality" means all municipal corporations in, and political subdivisions of, this State (now, excepts out from this definition a number of units of local government) and eliminates a basis on which a taxpayer may file an objection under these provisions. Makes other changes. Effective immediately.

LRB094 18483 BDD 53808 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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

4 Section 5. The Property Tax Code is amended by changing
5 Sections 23-15, 23-20, and 23-35 as follows:

6 (35 ILCS 200/23-15)

7 Sec. 23-15. Tax objection procedure and hearing.

8 (a) A tax objection complaint under Section 23-10 shall be
9 filed in the circuit court of the county in which the subject
10 property is located. Joinder of plaintiffs shall be permitted
11 to the same extent permitted by law in any personal action
12 pending in the court and shall be in accordance with Section
13 2-404 of the Code of Civil Procedure; provided, however, that
14 no complaint shall be filed as a class action. The complaint
15 shall name the county collector as defendant and shall specify
16 any objections that the plaintiff may have to the taxes in
17 question. No appearance or answer by the county collector to
18 the tax objection complaint, nor any further pleadings, need be
19 filed. Amendments to the complaint may be made to the same
20 extent which, by law, could be made in any personal action
21 pending in the court.

22 (b) (1) The court, sitting without a jury, shall hear and
23 determine all objections specified to the taxes, assessments,
24 or levies in question. This Section shall be construed to
25 provide a complete remedy for any claims with respect to those
26 taxes, assessments, or levies, excepting only matters for which
27 an exclusive remedy is provided elsewhere in this Code.

28 (2) The taxes, assessments, and levies that are the subject
29 of the objection shall be presumed correct and legal, but the
30 presumption is rebuttable. The plaintiff has the burden of
31 proving any contested matter of fact by clear and convincing
32 evidence.

1 (3) Objections to assessments shall be heard de novo by the
2 court. The court shall grant relief in the cases in which the
3 objector meets the burden of proof under this Section and shows
4 an assessment to be incorrect or illegal. If an objection is
5 made claiming incorrect valuation, the court shall consider the
6 objection without regard to the correctness of any practice,
7 procedure, or method of valuation followed by the assessor,
8 board of appeals, or board of review in making or reviewing the
9 assessment, and without regard to the intent or motivation of
10 any assessing official. The doctrine known as constructive
11 fraud is hereby abolished for purposes of all challenges to
12 taxes, assessments, or levies.

13 (c) If the court orders a refund of any part of the taxes
14 paid, it shall also order the payment of interest as provided
15 in Section 23-20. Appeals may be taken from final judgments as
16 in other civil cases.

17 (d) This amendatory Act of 1995 shall apply to all tax
18 objection matters still pending for any tax year, except as
19 provided in Sections 23-5 and 23-10 regarding procedures and
20 time limitations for payment of taxes and filing tax objection
21 complaints.

22 (e) In counties with less than 3,000,000 inhabitants, if
23 the court renders a decision lowering the assessment of a
24 particular parcel on which a residence occupied by the owner is
25 situated, the reduced assessment, subject to equalization,
26 shall remain in effect for the remainder of the general
27 assessment period as provided in Sections 9-215 through 9-225,
28 unless that parcel is subsequently sold in an arm's length
29 transaction establishing a fair cash value for the parcel that
30 is different from the fair cash value on which the court's
31 assessment is based, or unless the decision of the court is
32 reversed or modified upon review.

33 (f) In property tax rate objection cases, refunds may be
34 granted only to the extent that the property taxes objected to
35 were unauthorized, were above the limit allowed by an
36 applicable State statute or were otherwise in violation of an

1 applicable State statute, or were used for expenditures that
2 were illegal or without a valid public purpose. This amendatory
3 Act of the 94th General Assembly applies to all final refund
4 orders entered on or after the effective date of this
5 amendatory Act of the 94th General Assembly.

6 (Source: P.A. 88-455; 88-642, eff. 9-9-94; 89-126, eff.
7 7-11-95; 89-290, eff. 1-1-96; 89-593, eff. 8-1-96; 89-626, eff.
8 8-9-96.)

9 (35 ILCS 200/23-20)

10 Sec. 23-20. Effect of protested payments; refunds. No
11 protest shall prevent or be a cause of delay in the
12 distribution of tax collections to the taxing districts of any
13 taxes collected which were not paid under protest. If the final
14 order of the Property Tax Appeal Board or of a court results in
15 a refund to the taxpayer, refunds shall be made by the
16 collector from funds remaining in the Protest Fund until such
17 funds are exhausted and thereafter from the next funds
18 collected beginning in the second budget year after entry of
19 the final order until full payment of the refund and interest
20 thereon has been made. Interest from the date of payment,
21 regardless of whether the payment was made before the effective
22 date of this amendatory Act of 1997, or from the date payment
23 is due, whichever is later, to the date of refund shall also be
24 paid to the taxpayer at the annual rate of the lesser of (i) 5%
25 or (ii) the percentage increase in the Consumer Price Index For
26 All Urban Consumers during the 12-month calendar year preceding
27 the levy year for which the refund was made, as published by
28 the federal Bureau of Labor Statistics.

29 This amendatory Act of the 94th General Assembly applies to
30 all final orders entered on or after the effective date of this
31 amendatory Act of the 94th General Assembly.

32 (Source: P.A. 94-558, eff. 1-1-06.)

33 (35 ILCS 200/23-35)

34 Sec. 23-35. Tax objection based on budget or appropriation

1 ordinance. Notwithstanding the provisions of Section 23-10, no
2 objection to any property tax levied by any municipality shall
3 be sustained by any court because of the forms of any budget or
4 appropriation ordinance, or the degree of itemization or
5 classification of items therein, or the reasonableness of any
6 amount budgeted or appropriated thereby, or the transfer of
7 assets from one fund or use to another fund or use, or any
8 other matter that is included in the budget or appropriation
9 ordinance and could be cured prior to adoption of the final
10 budget and appropriation ordinance, if:

11 (a) a tentative budget and appropriation ordinance was
12 prepared at the direction of the governing body of the
13 municipality and made conveniently available to public
14 inspection for at least 30 days prior to the public hearing
15 specified below and to final action thereon, or such other
16 time as may be required by the municipality's enabling act;

17 (b) at least one public hearing has been held by the
18 governing body as to the tentative budget and appropriation
19 ordinance prior to final action thereon, and notice of the
20 time and place where copies of the tentative budget and
21 appropriation ordinances are available for public
22 inspection, and the time and place of the hearing, has been
23 given by publication in a newspaper published in the
24 municipality at least 30 days prior to the time of the
25 hearing, or such other time as may be required by the
26 municipality's enabling act, or, if there is no newspaper
27 published in the municipality, notice of the public hearing
28 has been given by publication in a newspaper of general
29 circulation in the municipality; and

30 (c) the budget and appropriation ordinance finally
31 adopted is substantially identical, as to the matters to
32 which objection is made, with the tentative budget and
33 appropriation ordinance submitted for discussion at the
34 public hearing, unless the taxpayer making the objection
35 has made the same objection in writing and with the same
36 specificity to the governing body of the municipality on or

1 prior to the date of the public hearing ~~adoption of the~~
2 ~~budget and appropriation ordinance.~~

3 "Municipality", as used in this Section, means all
4 municipal corporations in, and political subdivisions of, this
5 State ~~except the following: counties; cities, villages and~~
6 ~~incorporated towns; sanitary districts created under the~~
7 ~~Metropolitan Water Reclamation District Act; forest preserve~~
8 ~~districts having a population of 3,000,000 or more, created~~
9 ~~under the Cook County Forest Preserve Park District Act; boards~~
10 ~~of education of school districts in cities exceeding 1,000,000~~
11 ~~inhabitants; the Chicago Park District created under the~~
12 ~~Chicago Park District Act; and park districts as defined in~~
13 ~~subsection (b) of Section 1-3 of the Park District Code.~~

14 This amendatory Act of the 94th General Assembly applies to
15 all property tax levies based on budgets or appropriation
16 ordinances adopted on or after the effective date of this
17 amendatory Act of the 94th General Assembly.

18 (Source: P.A. 91-357, eff. 7-29-99.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.