



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1454

Introduced 2/9/2007, 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 above the limit allowed by law or were used for expenditures that were both illegal and 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.

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FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning taxes.

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

4 Section 10. 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,

1 or levies in question. This Section shall be construed to
2 provide a complete remedy for any claims with respect to those
3 taxes, assessments, or levies, excepting only matters for which
4 an exclusive remedy is provided elsewhere in this Code.

5 (2) The taxes, assessments, and levies that are the subject
6 of the objection shall be presumed correct and legal, but the
7 presumption is rebuttable. The plaintiff has the burden of
8 proving any contested matter of fact by clear and convincing
9 evidence.

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

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

26 (d) This amendatory Act of 1995 shall apply to all tax

1 objection matters still pending for any tax year, except as
2 provided in Sections 23-5 and 23-10 regarding procedures and
3 time limitations for payment of taxes and filing tax objection
4 complaints.

5 (e) In counties with less than 3,000,000 inhabitants, if
6 the court renders a decision lowering the assessment of a
7 particular parcel on which a residence occupied by the owner is
8 situated, the reduced assessment, subject to equalization,
9 shall remain in effect for the remainder of the general
10 assessment period as provided in Sections 9-215 through 9-225,
11 unless that parcel is subsequently sold in an arm's length
12 transaction establishing a fair cash value for the parcel that
13 is different from the fair cash value on which the court's
14 assessment is based, or unless the decision of the court is
15 reversed or modified upon review.

16 (f) In property tax rate objection cases, refunds may be
17 granted only to the extent that the property taxes objected to
18 were above the limit allowed by law or were used for
19 expenditures that were both illegal and without a valid public
20 purpose. This amendatory Act of the 95th General Assembly
21 applies to all final refund orders entered on or after the
22 effective date of this amendatory Act of the 95th General
23 Assembly.

24 (Source: P.A. 88-455; 88-642, eff. 9-9-94; 89-126, eff.
25 7-11-95; 89-290, eff. 1-1-96; 89-593, eff. 8-1-96; 89-626, eff.
26 8-9-96.)

1 (35 ILCS 200/23-20)

2 Sec. 23-20. Effect of protested payments; refunds. No
3 protest shall prevent or be a cause of delay in the
4 distribution of tax collections to the taxing districts of any
5 taxes collected which were not paid under protest. If the final
6 order of the Property Tax Appeal Board or of a court results in
7 a refund to the taxpayer, refunds shall be made by the
8 collector from funds remaining in the Protest Fund until such
9 funds are exhausted and thereafter from the next funds
10 collected beginning in the second budget year after entry of
11 the final order until full payment of the refund and interest
12 thereon has been made. Interest from the date of payment,
13 regardless of whether the payment was made before the effective
14 date of this amendatory Act of 1997, or from the date payment
15 is due, whichever is later, to the date of refund shall also be
16 paid to the taxpayer at the annual rate of the lesser of (i) 5%
17 or (ii) the percentage increase in the Consumer Price Index For
18 All Urban Consumers during the 12-month calendar year preceding
19 the levy year for which the refund was made, as published by
20 the federal Bureau of Labor Statistics. This amendatory Act of
21 the 95th General Assembly applies to all final orders entered
22 on or after the effective date of this amendatory Act of the
23 95th General Assembly.

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

1 (35 ILCS 200/23-35)

2 Sec. 23-35. Tax objection based on budget or appropriation
3 ordinance. Notwithstanding the provisions of Section 23-10, no
4 objection to any property tax levied by any municipality shall
5 be sustained by any court because of the forms of any budget or
6 appropriation ordinance, or the degree of itemization or
7 classification of items therein, or the reasonableness of any
8 amount budgeted or appropriated thereby, or the transfer of
9 assets from one fund or use to another fund or use, or any
10 other matter that is included in the budget or appropriation
11 ordinance and could be cured prior to adoption of the final
12 budget and appropriation ordinance, if:

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

19 (b) at least one public hearing has been held by the
20 governing body as to the tentative budget and appropriation
21 ordinance prior to final action thereon, and notice of the
22 time and place where copies of the tentative budget and
23 appropriation ordinances are available for public
24 inspection, and the time and place of the hearing, has been
25 given by publication in a newspaper published in the
26 municipality at least 30 days prior to the time of the

1 hearing, or such other time as may be required by the
2 municipality's enabling act, or, if there is no newspaper
3 published in the municipality, notice of the public hearing
4 has been given by publication in a newspaper of general
5 circulation in the municipality; and

6 (c) the budget and appropriation ordinance finally
7 adopted is substantially identical, as to the matters to
8 which objection is made, with the tentative budget and
9 appropriation ordinance submitted for discussion at the
10 public hearing, unless the taxpayer making the objection
11 has made the same objection in writing and with the same
12 specificity to the governing body of the municipality on or
13 prior to the date of the public hearing ~~adoption of the~~
14 ~~budget and appropriation ordinance.~~

15 "Municipality", as used in this Section, means all
16 municipal corporations in, and political subdivisions of, this
17 State ~~except the following: counties; cities, villages and~~
18 ~~incorporated towns; sanitary districts created under the~~
19 ~~Metropolitan Water Reclamation District Act; forest preserve~~
20 ~~districts having a population of 3,000,000 or more, created~~
21 ~~under the Cook County Forest Preserve Park District Act; boards~~
22 ~~of education of school districts in cities exceeding 1,000,000~~
23 ~~inhabitants; the Chicago Park District created under the~~
24 ~~Chicago Park District Act; and park districts as defined in~~
25 ~~subsection (b) of Section 1-3 of the Park District Code.~~

26 This amendatory Act of the 95th General Assembly applies to

1 all property tax levies based on budgets or appropriation
2 ordinances adopted on or after the effective date of this
3 amendatory Act of the 95th General Assembly.

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

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.