



Sen. Pamela J. Althoff

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09600SB0082sam003

LRB096 03320 RLJ 24144 a

1 AMENDMENT TO SENATE BILL 82

2 AMENDMENT NO. _____. Amend Senate Bill 82 on page 10, by
3 replacing line 20 with the following: "the extent otherwise
4 provided in Section 5-1095.1 of the Counties Code and Sections
5 8-11-2.5 and 11-42-11.05 of the"; and

6 on page 11, immediately below line 23, by inserting the
7 following:

8 "Section 15. The Counties Code is amended by adding Section
9 5-1095.1 as follows:

10 (55 ILCS 5/5-1095.1 new)

11 Sec. 5-1095.1. County tax review; requests for
12 information.

13 (a) If a county has imposed a tax under Section 5-1095,
14 then the county may conduct an audit of tax receipts collected
15 from the incumbent cable operator that is subject to the tax or

1 that collects the tax from purchasers on behalf of the county
2 to determine whether the amount of tax that was paid by the
3 incumbent cable operator was accurate.

4 (b) Not more than once every 2 years, a county that has
5 imposed a tax under this Act may, subject to the limitations
6 and protections stated in Section 22-501 of the Cable and Video
7 Customer Protection Law and in the Local Government Taxpayers'
8 Bill of Rights Act, request any information from the incumbent
9 cable operator in the format maintained by the incumbent cable
10 operator in the ordinary course of its business that the county
11 reasonably requires in order to perform an audit under
12 subsection (a). The information that may be requested by the
13 county includes, without limitation:

14 (1) in an electronic format used by the incumbent cable
15 operator in the ordinary course of its business, the
16 database used by the incumbent cable operator to determine
17 the amount of tax due to the county; and

18 (2) in a format used by the incumbent cable operator in
19 the ordinary course of its business, summary data, as
20 needed by the county, to determine the gross revenues
21 collected and the associated taxes assessed.

22 (c) Each incumbent cable operator must provide the
23 information requested under subsection (b) within:

24 (1) 60 days after the date of the request if the
25 population of the requesting county is 500,000 or less; or

26 (2) 90 days after the date of the request if the

1 population of the requesting county exceeds 500,000.

2 The time in which an incumbent cable operator must provide
3 the information requested under subsection (b) may be extended
4 by an agreement between the county and the incumbent cable
5 operator. If an incumbent cable operator receives, during a
6 single month, information requests from more than 2 counties,
7 or the aggregate population of the requesting counties is
8 100,000 customers or more, the incumbent cable operator is
9 entitled to an additional 30 days to respond to those requests.
10 The Illinois Department of Revenue may grant the incumbent
11 cable operator additional extensions to respond.

12 (d) If an audit by the county or its agents finds an error
13 by the incumbent cable operator in the amount of taxes paid by
14 the incumbent cable operator, then the county may notify the
15 incumbent cable operator of the error. Any such notice must be
16 made by the county no later than 4 years after the date the tax
17 required to be paid under this Law was due or any lesser period
18 of time that may be specified in the county ordinance imposing
19 the tax. Upon such a notice, the incumbent cable operator must
20 submit a written response within 60 days after the date the
21 notice was postmarked stating that it has corrected the error
22 on a prospective basis or stating the reason that the error is
23 inapplicable or inaccurate. The county then has 60 days after
24 the receipt of the incumbent cable operator's response to
25 review and contest the conclusion of the incumbent cable
26 operator. If the parties are unable to agree on the disposition

1 of the audit findings within 120 days after the notification of
2 the error to the incumbent cable operator, then either party
3 may submit the matter to the Illinois Department of Revenue for
4 resolution.

5 (e) No incumbent cable operator is liable for any error in
6 past collections and payments that was unknown by it prior to
7 the audit process unless (i) the error was due to gross
8 negligence by the incumbent cable operator in the collection or
9 processing of required data and (ii) the county had not failed
10 to respond in writing on an accurate and timely basis to any
11 written request of the incumbent cable operator to review and
12 correct information used by the incumbent cable operator to
13 collect the county's tax if a diligent review of such
14 information by the county reasonably could have been expected
15 to discover such error. If, however, an error in past
16 collections or payments resulted in a customer who should not
17 have owed a tax to any county, having paid a tax to a county,
18 then the customer may recover the tax from the incumbent cable
19 operator, and any amount so paid by the incumbent cable
20 operator may be deducted by that incumbent cable operator from
21 any taxes then or thereafter owed by the incumbent cable
22 operator to that county.

23 (f) All account specific information provided by an
24 incumbent cable operator under this Section may be used only
25 for the purpose of an audit of taxes conducted under this
26 Section and the enforcement of any related tax claim. All such

1 information must be held in strict confidence by the county and
2 its agents and may not be disclosed to the public under the
3 Freedom of Information Act or under any other similar statutes
4 allowing for or requiring public disclosure.

5 (g) An incumbent cable operator that collects less than
6 \$1,000 annually in taxes under this Act is exempt from the
7 provisions of subsections (a) through (e) of this Section.

8 (h) The Department of Revenue shall adopt any rules that
9 are required to effectively enforce this Section. The
10 Department of Revenue has the exclusive jurisdiction to resolve
11 any disputes arising under this Section, subject to review by
12 the courts under the Administrative Review Law.

13 (i) Any incumbent cable operator that fails to comply with
14 the provisions of subsection (c) or (d) of this Section shall
15 pay for all costs of enforcement by the Illinois Department of
16 Revenue, including reasonable legal fees.

17 (j) For the purposes of this Section, "incumbent cable
18 operator" means a person or entity that provided cable services
19 or video services in a particular area under a franchise
20 agreement with a unit of local government pursuant to Section
21 11-42-11 of the Illinois Municipal Code or Section 5-1095 of
22 the Counties Code on January 1, 2007."; and

23 on page 11, by replacing lines 24 and 25 with the following:

24 "Section 20. The Illinois Municipal Code is amended by
25 adding Sections 8-11-2.5 and 11-42-11.05 as follows:"; and

1 on page 16, immediately above line 10, by inserting the
2 following:

3 "(65 ILCS 5/11-42-11.05 new)

4 Sec. 11-42-11.05. Municipal tax review; requests for
5 information.

6 (a) If a municipality has imposed a tax under Section
7 11-42-11, then the municipality may conduct an audit of tax
8 receipts collected from the incumbent cable operator that is
9 subject to the tax or that collects the tax from purchasers on
10 behalf of the municipality to determine whether the amount of
11 tax that was paid by the incumbent cable operator was accurate.

12 (b) Not more than once every 2 years, a municipality that
13 has imposed a tax under this Act may, subject to the
14 limitations and protections stated in Section 22-501 of the
15 Cable and Video Customer Protection Law and in the Local
16 Government Taxpayers' Bill of Rights Act, request any
17 information from the incumbent cable operator in the format
18 maintained by the incumbent cable operator in the ordinary
19 course of its business that the municipality reasonably
20 requires in order to perform an audit under subsection (a). The
21 information that may be requested by the municipality includes,
22 without limitation:

23 (1) in an electronic format used by the incumbent cable
24 operator in the ordinary course of its business, the

1 database used by the incumbent cable operator to determine
2 the amount of tax due to the municipality; and

3 (2) in a format used by the incumbent cable operator in
4 the ordinary course of its business, summary data, as
5 needed by the municipality, to determine the gross revenues
6 collected and the associated taxes assessed.

7 (c) Each incumbent cable operator must provide the
8 information requested under subsection (b) within:

9 (1) 60 days after the date of the request if the
10 population of the requesting municipality is 500,000 or
11 less; or

12 (2) 90 days after the date of the request if the
13 population of the requesting municipality exceeds 500,000.

14 The time in which an incumbent cable operator must provide
15 the information requested under subsection (b) may be extended
16 by an agreement between the municipality and the incumbent
17 cable operator. If an incumbent cable operator receives, during
18 a single month, information requests from more than 2
19 municipalities, or the aggregate population of the requesting
20 municipalities is 100,000 customers or more, the incumbent
21 cable operator is entitled to an additional 30 days to respond
22 to those requests. The Illinois Department of Revenue may grant
23 the incumbent cable operator additional extensions to respond.

24 (d) If an audit by the municipality or its agents finds an
25 error by the incumbent cable operator in the amount of taxes
26 paid by the incumbent cable operator, then the municipality may

1 notify the incumbent cable operator of the error. Any such
2 notice must be made by the municipality no later than 4 years
3 after the date the tax required to be paid under this Law was
4 due or any lesser period of time that may be specified in the
5 municipal ordinance imposing the tax. Upon such a notice, the
6 incumbent cable operator must submit a written response within
7 60 days after the date the notice was postmarked stating that
8 it has corrected the error on a prospective basis or stating
9 the reason that the error is inapplicable or inaccurate. The
10 municipality then has 60 days after the receipt of the
11 incumbent cable operator's response to review and contest the
12 conclusion of the incumbent cable operator. If the parties are
13 unable to agree on the disposition of the audit findings within
14 120 days after the notification of the error to the incumbent
15 cable operator, then either party may submit the matter to the
16 Illinois Department of Revenue for resolution.

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

1 expected to discover such error. If, however, an error in past
2 collections or payments resulted in a customer who should not
3 have owed a tax to any municipality, having paid a tax to a
4 municipality, then the customer may recover the tax from the
5 incumbent cable operator, and any amount so paid by the
6 incumbent cable operator may be deducted by that incumbent
7 cable operator from any taxes then or thereafter owed by the
8 incumbent cable operator to that municipality.

9 (f) All account specific information provided by an
10 incumbent cable operator under this Section may be used only
11 for the purpose of an audit of taxes conducted under this
12 Section and the enforcement of any related tax claim. All such
13 information must be held in strict confidence by the
14 municipality and its agents and may not be disclosed to the
15 public under the Freedom of Information Act or under any other
16 similar statutes allowing for or requiring public disclosure.

17 (g) An incumbent cable operator that collects less than
18 \$1,000 annually in taxes under this Act is exempt from the
19 provisions of subsections (a) through (e) of this Section.

20 (h) The Department of Revenue shall adopt any rules that
21 are required to effectively enforce this Section. The
22 Department of Revenue has the exclusive jurisdiction to resolve
23 any disputes arising under this Section, subject to review by
24 the courts under the Administrative Review Law.

25 (i) Any incumbent cable operator that fails to comply with
26 the provisions of subsection (c) or (d) of this Section shall

1 pay for all costs of enforcement by the Illinois Department of
2 Revenue, including reasonable legal fees.

3 (j) For the purposes of this Section, "incumbent cable
4 operator" means a person or entity that provided cable services
5 or video services in a particular area under a franchise
6 agreement with a unit of local government pursuant to Section
7 11-42-11 of the Illinois Municipal Code or Section 5-1095 of
8 the Counties Code on January 1, 2007."