

1 AN ACT concerning local government.

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

4 Section 5. The Electricity Infrastructure Maintenance Fee
5 Law is amended by adding Section 5-10 as follows:

6 (35 ILCS 645/5-10 new)

7 Sec. 5-10. Municipal tax review; requests for information.

8 (a) A municipality may conduct an audit of fees under this
9 Act to determine the accuracy of the fees paid by an
10 electricity deliverer.

11 (b) Not more than once every 2 years, a municipality that
12 has imposed a fee under this Law may, subject to the
13 limitations and protections stated in Section 16-122 of the
14 Public Utilities Act, request any information from an
15 electricity deliverer that the municipality reasonably
16 requires in order to perform an audit under subsection (a). The
17 information that may be requested by the municipality includes,
18 without limitation:

19 (1) in an electronic format, the database used by the
20 electricity deliverer to determine the amount due to the
21 municipality; provided, however, that, if the municipality
22 has requested customer-specific billing, usage, and load
23 shape data from an electricity deliverer that is an

1 electric utility and has not provided the electric utility
2 with the verifiable authorization required by Section
3 16-122 of the Public Utilities Act, then the electric
4 utility shall remove from the database all
5 customer-specific billing, usage, and load shape data
6 before providing it to the municipality; and

7 (2) in a format used by the public utility in the
8 ordinary course of its business, summary data, as needed by
9 the municipality, to determine the unit consumption by
10 providing the gross kilowatt-hours or other units of
11 measurement subject to the fee imposed by this Law within
12 the municipal jurisdiction.

13 (c) Each electricity deliverer must provide the
14 information requested under subsection (b) within:

15 (1) 60 days after the date of the request if the
16 population of the requesting municipality is 500,000 or
17 less; or

18 (2) 90 days after the date of the request if the
19 population of the requesting municipality exceeds 500,000.

20 The time in which an electricity deliverer must provide the
21 information requested under subsection (b) may be extended by
22 an agreement between the municipality and the electricity
23 deliverer. If an electricity deliverer receives, during a
24 single month, information requests from more than 2
25 municipalities, or the aggregate population of the requesting
26 municipalities is 100,000 customers or more, the electricity

1 deliverer is entitled to an additional 30 days to respond to
2 those requests.

3 (d) If an audit by the municipality or its agents finds an
4 error by the electricity deliverer in the amount of fees
5 collected or paid by the electricity deliverer, then the
6 municipality must notify the electricity deliverer of the
7 error. Any such notice must be issued pursuant to Section 30 of
8 the Local Government Taxpayers' Bill of Rights Act or a lesser
9 period of time from the date the fee was due that may be
10 specified in the municipal ordinance imposing the fee. Upon
11 such a notice, any audit shall be conducted pursuant to Section
12 35 of the Local Government Taxpayers' Bill of Rights Act
13 subject to the timelines set forth in this subsection (d). The
14 electricity deliverer must submit a written response within 60
15 days after the date the notice was postmarked stating that it
16 has corrected the error or stating the reason that the error is
17 inapplicable or inaccurate. The municipality then has 60 days
18 after the receipt of the electricity deliverer's response to
19 review and contest the conclusion of the electricity deliverer.
20 If the parties are unable to agree on the disposition of the
21 audit findings within 120 days after the notification of the
22 error to the electricity deliverer, then either party may
23 submit the matter for appeal as outlined in Section 40 of the
24 Local Government Taxpayers' Bill of Rights Act. If the appeals
25 process does not produce a satisfactory result, then either
26 party may pursue the alleged error in a court of competent

1 jurisdiction.

2 (e) Electricity deliverers and municipalities are not
3 liable for any error in past collections and payments that was
4 unknown to either the electricity deliverer or the municipality
5 prior to the audit process unless the error was due to
6 negligence in the collection or processing of required data.
7 If, however, an error in past collections or payments resulted
8 in a customer, who should not have owed a fee to any
9 municipality, having paid a fee to a municipality, then the
10 customer may, to the extent allowed by Section 9-252 of the
11 Public Utilities Act, recover the fee from the electricity
12 deliverer, and any amount so paid by the electricity deliverer
13 may be deducted by that electricity deliverer from any fees or
14 taxes then or thereafter owed by the electricity deliverer to
15 that municipality.

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

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

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

3 Section 10. The Local Government Taxpayers' Bill of Rights
4 Act is amended by changing Sections 10 and 35 as follows:

5 (50 ILCS 45/10)

6 Sec. 10. Application and home rule preemption. The
7 limitations provided by this Act shall take precedence over any
8 provision of any tax ordinance imposed by a unit of local
9 government, as defined in this Act, in Illinois, including
10 without limitation any tax authorized under Section 8-11-2 of
11 the Illinois Municipal Code.

12 Consistent with the limitations provided by this Act, a
13 municipality, other than a municipality having a population
14 greater than 1,000,000, may not impose any penalty with respect
15 to a tax authorized by Section 8-11-2 of the Illinois Municipal
16 Code or with respect to an audit authorized by Section 8-11-2.5
17 of the Illinois Municipal Code, except as specified in Sections
18 50, 55, and 60 of this Act.

19 This Act is a denial and limitation of home rule powers and
20 functions under subsection (g) of Section 6 of Article VII of
21 the Illinois Constitution.

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

23 (50 ILCS 45/35)

1 Sec. 35. Audit procedures. Taxpayers have the right to be
2 treated by officers, employees, and agents of the local tax
3 administrator with courtesy, fairness, uniformity,
4 consistency, and common sense. This Section applies to any
5 audit of a tax imposed by a unit of local government other than
6 a municipality having a population greater than 1,000,000,
7 except to the extent otherwise provided in Section 8-11-2.5 of
8 the Illinois Municipal Code. Taxpayers must be notified in
9 writing by the local jurisdiction of a proposed audit of the
10 taxpayer's books and records clearly identifying who will be
11 conducting the audit. For audits being conducted by third-party
12 providers, the local jurisdiction must provide written
13 authorization for the third-party provider to review the books
14 and records of the taxpayer. No contact may be made by the
15 third-party provider until the local-jurisdiction
16 authorization is received by the taxpayer. The notice of audit
17 must specify the tax and time period to be audited and must
18 detail the minimum documentation or books and records to be
19 made available to the auditor. Audits must be held only during
20 reasonable times of the day and, unless impracticable, at times
21 agreed to by the taxpayer. The auditor must sign a
22 confidentiality agreement upon request by the taxpayer. Upon
23 the completion of the audit, the local jurisdiction must issue
24 an audit closure report to the taxpayer with the results of the
25 audit. An auditor who determines that there has been an
26 overpayment of tax during the course of the audit is obligated

1 to identify the overpayment to the taxpayer so that the
2 taxpayer can take the necessary steps to recover the
3 overpayment. If the overpayment is the result of the
4 application of some or all of the taxpayer's tax payment to an
5 incorrect local government entity, then upon request by a unit
6 of local government, the audit information must be given to any
7 unit of local government that may be affected by an overpayment
8 ~~the auditor must notify the correct local government entity of~~
9 ~~the taxpayer's application error.~~

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

11 Section 15. The Counties Code is amended by adding Section
12 5-1095.1 as follows:

13 (55 ILCS 5/5-1095.1 new)

14 Sec. 5-1095.1. County franchise fee review; requests for
15 information.

16 (a) If pursuant to its franchise agreement with a community
17 antenna television system (CATV) operator, a county imposes a
18 franchise fee authorized by 47 U.S.C. 542, then the county may
19 conduct an audit of that CATV operator's franchise fees derived
20 from the provision of cable and video services to subscribers
21 within the franchise area to determine whether the amount of
22 franchise fees paid by that CATV operator to the county was
23 accurate. Any audit conducted under this subsection (a) shall
24 determine any overpayment or underpayment to the county by the

1 CATV operator, and the amount due to the county or CATV
2 operator is limited to the net difference.

3 (b) Not more than once every 2 years, a county that has
4 imposed a franchise fee authorized by 47 U.S.C. 542 may,
5 subject to the limitations and protections stated in the Local
6 Government Taxpayers' Bill of Rights Act, request information
7 from the CATV operator in the format maintained by the CATV
8 operator in the ordinary course of its business that the county
9 reasonably requires in order to perform an audit under
10 subsection (a). The information that may be requested by the
11 county includes without limitation the following:

12 (1) in an electronic format used by the CATV operator
13 in the ordinary course of its business, the database used
14 by the CATV operator to determine the amount of the
15 franchise fee due to the county; and

16 (2) in a format used by the CATV operator in the
17 ordinary course of its business, summary data, as needed by
18 the county, to determine the CATV operator's franchise fees
19 derived from the provision of cable and video services to
20 subscribers within the CATV operator's franchise area.

21 (c) The CATV operator must provide the information
22 requested under subsection (b) within:

23 (1) 60 days after the receipt of the request if the
24 population of the requesting county is 500,000 or less; or

25 (2) 90 days after the receipt of the request if the
26 population of the requesting county exceeds 500,000.

1 The time in which a CATV operator must provide the
2 information requested under subsection (b) may be extended by
3 an agreement between the county and the CATV operator.

4 (d) If an audit by the county or its agents finds an error
5 by the CATV operator in the amount of the franchise fees paid
6 by the CATV operator to the county, then the county may notify
7 the CATV operator of the error. Any such notice must be given
8 to the CATV operator by the county within 90 days after the
9 county discovers the error, and no later than 4 years after the
10 date the franchise fee was due. Upon such a notice, the CATV
11 operator must submit a written response within 60 days after
12 receipt of the notice stating that the CATV operator has
13 corrected the error on a prospective basis or stating the
14 reason that the error is inapplicable or inaccurate. The county
15 then has 60 days after the receipt of the CATV operator's
16 response to review and contest the conclusion of the CATV
17 operator. No legal proceeding to collect a deficiency based
18 upon an alleged error shall be commenced unless within 180 days
19 after the county's notification of the error to the CATV
20 operator the parties are unable to agree on the disposition of
21 the audit findings.

22 (e) No CATV operator is liable for any error in past
23 franchise fee payments that was unknown by the CATV operator
24 prior to the audit process unless (i) the error was due to
25 negligence on the part of the CATV operator in the collection
26 or processing of required data and (ii) the county had not

1 failed to respond in writing in a timely manner to any written
2 request of the CATV operator to review and correct information
3 used by the CATV operator to calculate the appropriate
4 franchise fees if a diligent review of such information by the
5 county reasonably could have been expected to discover such
6 error.

7 (f) All account specific information provided by a CATV
8 operator under this Section may be used only for the purpose of
9 an audit conducted under this Section and the enforcement of
10 any franchise fee delinquent claim. All such information must
11 be held in strict confidence by the county and its agents and
12 may not be disclosed to the public under the Freedom of
13 Information Act or under any other similar statutes allowing
14 for or requiring public disclosure.

15 (g) For the purposes of this Section, "CATV operator" means
16 a person or entity that provides cable and video services under
17 a franchise agreement with a county pursuant to Section 5-1095
18 of the Counties Code and a holder authorized under Section
19 21-401 of the Cable and Video Competition Law of 2007 as
20 consistent with Section 21-901 of that Law.

21 (h) This Section does not apply to any action that was
22 commenced, to any complaint that was filed, or to any audit
23 that was commenced before the effective date of this amendatory
24 Act of the 96th General Assembly. This Section also does not
25 apply to any franchise agreement that was entered into before
26 the effective date of this amendatory Act of the 96th General

1 Assembly unless the franchise agreement contains audit
2 provisions but no specifics regarding audit procedures.

3 (i) The provisions of this Section shall not be construed
4 as diminishing or replacing any civil remedy available to a
5 county, taxpayer, or tax collector.

6 (j) If a contingent fee is paid to an auditor, then the
7 payment must be based upon the net difference of the complete
8 audit.

9 (k) Within 90 days after the effective date of this
10 amendatory Act of the 96th General Assembly, a county shall
11 provide to any CATV operator a complete list of addresses
12 within the corporate limits of the county and shall annually
13 update the list.

14 (l) This Section is a denial and limitation of home rule
15 powers and functions under subsection (h) of Section 6 of
16 Article VII of the Illinois Constitution.

17 Section 20. The Illinois Municipal Code is amended by
18 adding Sections 8-11-2.5 and 11-42-11.05 as follows:

19 (65 ILCS 5/8-11-2.5 new)

20 Sec. 8-11-2.5. Municipal tax review; requests for
21 information.

22 (a) If a municipality has imposed a tax under Section
23 8-11-2, then the municipality may conduct an audit of tax
24 receipts collected from the public utility that is subject to

1 the tax or that collects the tax from purchasers on behalf of
2 the municipality to determine whether the amount of tax that
3 was paid by the public utility was accurate.

4 (b) Not more than once every 2 years, a municipality that
5 has imposed a tax under this Act may, subject to the
6 limitations and protections stated in Section 16-122 of the
7 Public Utilities Act and in the Local Government Taxpayers'
8 Bill of Rights Act, request any information from a utility in
9 the format maintained by the public utility in the ordinary
10 course of its business that the municipality reasonably
11 requires in order to perform an audit under subsection (a). The
12 information that may be requested by the municipality includes,
13 without limitation:

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

26 (2) in a format used by the public utility in the

1 ordinary course of its business, summary data, as needed by
2 the municipality, to determine the unit consumption of
3 utility services by providing the gross therms, kilowatts,
4 minutes, 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:

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 a public utility must provide the
15 information requested under subsection (b) may be extended by
16 an agreement between the municipality and the public utility.
17 If a public utility receives, during a single month,
18 information requests from more than 2 municipalities, or the
19 aggregate population of the requesting municipalities is
20 100,000 customers or more, the public utility is entitled to an
21 additional 30 days to respond to those requests.

22 (d) If an audit by the municipality or its agents finds an
23 error by the public utility in the amount of taxes paid by the
24 public utility, then the municipality must notify the public
25 utility of the error. Any such notice must be issued pursuant
26 to Section 30 of the Local Government Taxpayers' Bill of Rights

1 Act or a lesser period of time from the date the tax was due
2 that may be specified in the municipal ordinance imposing the
3 tax. Upon such a notice, any audit shall be conducted pursuant
4 to Section 35 of the Local Government Taxpayers' Bill of Rights
5 Act subject to the timelines set forth in this subsection (d).
6 The public utility must submit a written response within 60
7 days after the date the notice was postmarked stating that it
8 has corrected the error or stating the reason that the error is
9 inapplicable or inaccurate. The municipality then has 60 days
10 after the receipt of the public utility's response to review
11 and contest the conclusion of the public utility. If the
12 parties are unable to agree on the disposition of the audit
13 findings within 120 days after the notification of the error to
14 the public utility, then either party may submit the matter for
15 appeal as outlined in Section 40 of the Local Government
16 Taxpayers' Bill of Rights Act. If the appeals process does not
17 produce a satisfactory result, then either party may pursue the
18 alleged error in a court of competent jurisdiction.

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

1 review of such information by the municipality reasonably could
2 have been expected to discover such error. If, however, an
3 error in past collections or payments resulted in a customer,
4 who should not have owed a tax to any municipality, having paid
5 a tax to a municipality, then the customer may, to the extent
6 allowed by Section 9-252 of the Public Utilities Act, recover
7 the tax from the public utility, and any amount so paid by the
8 public utility may be deducted by that public utility from any
9 taxes then or thereafter owed by the public utility to that
10 municipality.

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

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

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

24 (65 ILCS 5/11-42-11.05 new)

25 Sec. 11-42-11.05. Municipal franchise fee review; requests

1 for information.

2 (a) If pursuant to its franchise agreement with a community
3 antenna television system (CATV) operator, a municipality
4 imposes a franchise fee authorized by 47 U.S.C. 542, then the
5 municipality may conduct an audit of that CATV operator's
6 franchise fees derived from the provision of cable and video
7 services to subscribers within the franchise area to determine
8 whether the amount of franchise fees paid by that CATV operator
9 to the municipality was accurate. Any audit conducted under
10 this subsection (a) shall determine any overpayment or
11 underpayment to the municipality by the CATV operator, and the
12 amount due to the municipality or CATV operator is limited to
13 the net difference.

14 (b) Not more than once every 2 years, a municipality that
15 has imposed a franchise fee authorized by 47 U.S.C. 542 may,
16 subject to the limitations and protections stated in the Local
17 Government Taxpayers' Bill of Rights Act, request information
18 from the CATV operator in the format maintained by the CATV
19 operator in the ordinary course of its business that the
20 municipality reasonably requires in order to perform an audit
21 under subsection (a). The information that may be requested by
22 the municipality includes without limitation the following:

23 (1) in an electronic format used by the CATV operator
24 in the ordinary course of its business, the database used
25 by the CATV operator to determine the amount of the
26 franchise fee due to the municipality; and

1 (2) in a format used by the CATV operator in the
2 ordinary course of its business, summary data, as needed by
3 the municipality, to determine the CATV operator's
4 franchise fees derived from the provision of cable and
5 video services to subscribers within the CATV operator's
6 franchise area.

7 (c) The CATV operator must provide the information
8 requested under subsection (b) within:

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

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

14 The time in which a CATV operator must provide the
15 information requested under subsection (b) may be extended by
16 an agreement between the municipality and the CATV operator.

17 (d) If an audit by the municipality or its agents finds an
18 error by the CATV operator in the amount of the franchise fees
19 paid by the CATV operator to the municipality, then the
20 municipality may notify the CATV operator of the error. Any
21 such notice must be given to the CATV operator by the
22 municipality within 90 days after the municipality discovers
23 the error, and no later than 4 years after the date the
24 franchise fee was due. Upon such a notice, the CATV operator
25 must submit a written response within 60 days after receipt of
26 the notice stating that the CATV operator has corrected the

1 error on a prospective basis or stating the reason that the
2 error is inapplicable or inaccurate. The municipality then has
3 60 days after the receipt of the CATV operator's response to
4 review and contest the conclusion of the CATV operator. No
5 legal proceeding to collect a deficiency based upon an alleged
6 error shall be commenced unless within 180 days after the
7 municipality's notification of the error to the CATV operator
8 the parties are unable to agree on the disposition of the audit
9 findings.

10 (e) No CATV operator is liable for any error in past
11 franchise fee payments that was unknown by the CATV operator
12 prior to the audit process unless (i) the error was due to
13 negligence on the part of the CATV operator in the collection
14 or processing of required data and (ii) the municipality had
15 not failed to respond in writing in a timely manner to any
16 written request of the CATV operator to review and correct
17 information used by the CATV operator to calculate the
18 appropriate franchise fees if a diligent review of such
19 information by the municipality reasonably could have been
20 expected to discover such error.

21 (f) All account specific information provided by a CATV
22 operator under this Section may be used only for the purpose of
23 an audit conducted under this Section and the enforcement of
24 any franchise fee delinquent claim. All such information must
25 be held in strict confidence by the municipality and its agents
26 and may not be disclosed to the public under the Freedom of

1 Information Act or under any other similar statutes allowing
2 for or requiring public disclosure.

3 (g) For the purposes of this Section, "CATV operator" means
4 a person or entity that provides cable and video services under
5 a franchise agreement with a municipality pursuant to Section
6 11-42-11 of the Municipal Code and a holder authorized under
7 Section 21-401 of the Cable and Video Competition Law of 2007
8 as consistent with Section 21-901 of that Law.

9 (h) This Section does not apply to any action that was
10 commenced, to any complaint that was filed, or to any audit
11 that was commenced before the effective date of this amendatory
12 Act of the 96th General Assembly. This Section also does not
13 apply to any franchise agreement that was entered into before
14 the effective date of this amendatory Act of the 96th General
15 Assembly unless the franchise agreement contains audit
16 provisions but no specifics regarding audit procedures.

17 (i) The provisions of this Section shall not be construed
18 as diminishing or replacing any civil remedy available to a
19 municipality, taxpayer, or tax collector.

20 (j) If a contingent fee is paid to an auditor, then the
21 payment must be based upon the net difference of the complete
22 audit.

23 (k) Within 90 days after the effective date of this
24 amendatory Act of the 96th General Assembly, a municipality
25 shall provide to any CATV operator a complete list of addresses
26 within the corporate limits of the municipality and shall

1 annually update the list.

2 (l) This Section is a denial and limitation of home rule
3 powers and functions under subsection (h) of Section 6 of
4 Article VII of the Illinois Constitution.

5 (m) This Section does not apply to any municipality having
6 a population of more than 1,000,000.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.