



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3193

Introduced 2/1/2012, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

220 ILCS 5/4-203	from Ch. 111 2/3, par. 4-203
220 ILCS 5/13-304	
220 ILCS 20/7	from Ch. 111 2/3, par. 557

Amends the Public Utilities Act. Provides that all fines and penalties recovered by the State in certain actions and all other fines and civil penalties shall be paid into the State treasury to the credit of the Public Utility Fund (instead of the General Revenue Fund). Amends the Illinois Gas Pipeline Safety Act. Removes from the Act that the amount of any final civil penalty may be deducted from any sums owed by the State to the person charged or that may be recovered in a civil action. Provides that all penalties recovered by the State in any action shall be paid into the Public Utility Fund (instead of the General Revenue Fund). Effective immediately.

LRB097 13608 CEL 58143 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Public Utilities Act is amended by changing
5 Sections 4-203 and 13-304 as follows:

6 (220 ILCS 5/4-203) (from Ch. 111 2/3, par. 4-203)

7 Sec. 4-203. Action to recover penalties.

8 (a) All civil penalties established under this Act shall be
9 assessed and collected by the Commission. Except for the
10 penalties provided under Section 2-202, civil penalties may be
11 assessed only after notice and opportunity to be heard. In
12 determining the amount of the penalty, the Commission shall
13 consider the appropriateness of the penalty to the size of the
14 business of the public utility, corporation other than a public
15 utility, or person acting as a public utility charged, the
16 gravity of the violation, such other mitigating or aggravating
17 factors as the Commission may find to exist, and the good faith
18 of the public utility, corporation other than a public utility,
19 or person acting as a public utility charged in attempting to
20 achieve compliance after notification of a violation. Nothing
21 in this Section, however, increases or decreases any minimum or
22 maximum penalty prescribed elsewhere in this Act.

23 (b) If timely judicial review of a Commission order that

1 imposes a civil penalty is taken by the public utility,
2 corporation other than a public utility, or person acting as a
3 public utility on which the civil penalty has been imposed, the
4 reviewing court shall enter a judgment on all amounts upon
5 affirmance of the Commission order. If timely judicial review
6 is not taken and the civil penalty remains unpaid for 60 days
7 after service of the order, the Commission in its discretion
8 may either begin revocation proceedings or bring suit to
9 recover the penalties. Unless stayed by a reviewing court,
10 interest at the post-judgment rate set forth in Section 2-1303
11 of the Code of Civil Procedure shall accrue from 60 days after
12 the date of service of the Commission order.

13 (c) Actions to recover delinquent civil penalties under
14 this Act shall be brought in the name of the People of the
15 State of Illinois in the circuit court in and for the county in
16 which the cause, or some part thereof, arose, or in which the
17 corporation complained of, if any, has its principal place of
18 business, or in which the person, if any, complained of,
19 resides. The action shall be commenced and prosecuted to final
20 judgment by the Commission. In any such action, all interest
21 incurred up to the time of final court judgment may be sued for
22 and recovered in that action. In all such actions, the
23 procedure and rules of evidence shall be the same as in
24 ordinary civil actions, except as otherwise herein provided.
25 All fines and penalties recovered by the State in any such
26 action shall be paid into the State treasury to the credit of

1 the Public Utility Fund ~~General Revenue Fund~~. Any such action
2 may be compromised or discontinued on application of the
3 Commission upon such terms as the court shall approve and
4 order.

5 (d) Civil penalties related to the late filing of reports,
6 taxes, or other filings shall be paid into the State treasury
7 to the credit of the Public Utility Fund. Except as otherwise
8 provided in this Act, all other fines and civil penalties shall
9 be paid into the State treasury to the credit of the Public
10 Utility Fund ~~General Revenue Fund~~.

11 (Source: P.A. 93-457, eff. 8-8-03.)

12 (220 ILCS 5/13-304)

13 (Section scheduled to be repealed on July 1, 2013)

14 Sec. 13-304. Action to recover civil penalties.

15 (a) The Commission shall assess and collect all civil
16 penalties established under this Act against
17 telecommunications carriers, corporations other than
18 telecommunications carriers, and persons acting as
19 telecommunications carriers. Except for the penalties provided
20 under Section 2-202, civil penalties may be assessed only after
21 notice and opportunity to be heard. Any such civil penalty may
22 be compromised by the Commission. In determining the amount of
23 the civil penalty to be assessed, or the amount of the civil
24 penalty to be compromised, the Commission is authorized to
25 consider any matters of record in aggravation or mitigation of

1 the penalty, including but not limited to the following:

2 (1) the duration and gravity of the violation of the
3 Act, the rules, or the order of the Commission;

4 (2) the presence or absence of due diligence on the
5 part of the violator in attempting either to comply with
6 requirements of the Act, the rules, or the order of the
7 Commission, or to secure lawful relief from those
8 requirements;

9 (3) any economic benefits accrued by the violator
10 because of the delay in compliance with requirements of the
11 Act, the rules, or the order of the Commission; and

12 (4) the amount of monetary penalty that will serve to
13 deter further violations by the violator and to otherwise
14 aid in enhancing voluntary compliance with the Act, the
15 rules, or the order of the Commission by the violator and
16 other persons similarly subject to the Act.

17 (b) If timely judicial review of a Commission order that
18 imposes a civil penalty is taken by a telecommunications
19 carrier, a corporation other than a telecommunications
20 carrier, or a person acting as a telecommunications carrier on
21 whom or on which the civil penalty has been imposed, the
22 reviewing court shall enter a judgment on all amounts upon
23 affirmance of the Commission order. If timely judicial review
24 is not taken and the civil penalty remains unpaid for 60 days
25 after service of the order, the Commission in its discretion
26 may either begin revocation proceedings or bring suit to

1 recover the penalties. Unless stayed by a reviewing court,
2 interest shall accrue from the 60th day after the date of
3 service of the Commission order to the date full payment is
4 received by the Commission.

5 (c) Actions to recover delinquent civil penalties under
6 this Section shall be brought in the name of the People of the
7 State of Illinois in the circuit court in and for the county in
8 which the cause, or some part thereof, arose, or in which the
9 entity complained of resides. The action shall be commenced and
10 prosecuted to final judgement by the Commission. In any such
11 action, all interest incurred up to the time of final court
12 judgment may be recovered in that action. In all such actions,
13 the procedure and rules of evidence shall be the same as in
14 ordinary civil actions, except as otherwise herein provided.
15 Any such action may be compromised or discontinued on
16 application of the Commission upon such terms as the court
17 shall approve and order.

18 (d) Civil penalties related to the late filing of reports,
19 taxes, or other filings shall be paid into the State treasury
20 to the credit of the Public Utility Fund. Except as otherwise
21 provided in this Act, all other fines and civil penalties shall
22 be paid into the State treasury to the credit of the Public
23 Utility Fund ~~General Revenue Fund~~.

24 (Source: P.A. 92-22, eff. 6-30-01.)

25 Section 10. The Illinois Gas Pipeline Safety Act is amended

1 by changing Section 7 as follows:

2 (220 ILCS 20/7) (from Ch. 111 2/3, par. 557)

3 Sec. 7. Penalties; action for penalties.

4 (a) Any person violating paragraph (a) of Section 6 of this
5 Act or any rule or order issued under this Act is subject to a
6 civil penalty not to exceed the maximum penalties established
7 by Section 60122(a)(1) of Title 49 of the United States Code
8 for each day the violation persists. Such civil penalties do
9 not apply to a violation with respect to a pipeline facility in
10 existence on the effective date of this Act unless such
11 violation persists one year from the effective date.

12 (b) Any civil penalty may be compromised by the Commission.
13 In determining the amount of the penalty, or the amount agreed
14 upon in compromise, the Commission shall consider the
15 appropriateness of the penalty to the size of the business of
16 the person charged, the gravity of the violation, and the good
17 faith of the person charged in attempting to achieve
18 compliance, after notification of a violation. ~~The amount of~~
19 ~~the penalty when finally determined, or the amount agreed upon~~
20 ~~in compromise, may be deducted from any sums owing by the State~~
21 ~~of Illinois to the person charged or may be recovered in a~~
22 ~~civil action in accordance with paragraph (c) of this Section~~
23 ~~7.~~

24 (c) Actions to recover penalties under this Act shall be
25 brought in the name of the People of the State of Illinois in

1 the circuit court in and for the county in which the cause or
2 some part thereof, arose or in which the corporation complained
3 of, if any, has its principal place of business or in which the
4 person, if any, complained of, resides. All penalties recovered
5 by the State in any action shall be paid into the Public
6 Utility Fund ~~general fund~~ of the State Treasury. The action
7 shall be commenced and prosecuted to final judgment by the
8 Attorney General on behalf of the Commission. In all such
9 actions, the procedure and rules of evidence shall conform with
10 the Civil Practice Law and other rules of court governing civil
11 trials.

12 (d) In addition the Commission may proceed under Section
13 4-202 of the Public Utilities Act, either by mandamus or
14 injunction, to secure compliance with its rules, regulations
15 and orders issued under this Act.

16 (e) Any person penalized under this Section is not subject,
17 for the same cause, to any other penalty provided in the Public
18 Utilities Act.

19 (Source: P.A. 91-814, eff. 6-13-00.)

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