



Rep. John E. Bradley

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1 AMENDMENT TO HOUSE BILL 380

2 AMENDMENT NO. _____. Amend House Bill 380 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Economic Development for a Growing Economy
5 Tax Credit Act is amended by changing Section 5-15 as follows:

6 (35 ILCS 10/5-15)

7 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
8 forth in this Act, a Taxpayer is entitled to a Credit against
9 or, as described in subsection (g) of this Section, a payment
10 towards taxes imposed pursuant to subsections (a) and (b) of
11 Section 201 of the Illinois Income Tax Act that may be imposed
12 on the Taxpayer for a taxable year beginning on or after
13 January 1, 1999, if the Taxpayer is awarded a Credit by the
14 Department under this Act for that taxable year.

15 (a) The Department shall make Credit awards under this Act
16 to foster job creation and retention in Illinois.

1 (b) A person that proposes a project to create new jobs in
2 Illinois must enter into an Agreement with the Department for
3 the Credit under this Act.

4 (c) The Credit shall be claimed for the taxable years
5 specified in the Agreement.

6 (d) The Credit shall not exceed the Incremental Income Tax
7 attributable to the project that is the subject of the
8 Agreement.

9 (e) Nothing herein shall prohibit a Tax Credit Award to an
10 Applicant that uses a PEO if all other award criteria are
11 satisfied.

12 (f) In lieu of the Credit allowed under this Act against
13 the taxes imposed pursuant to subsections (a) and (b) of
14 Section 201 of the Illinois Income Tax Act for any taxable year
15 ending on or after December 31, 2009, the Taxpayer may elect to
16 claim the Credit against its obligation to pay over withholding
17 under Section 704A of the Illinois Income Tax Act.

18 (1) The election under this subsection (f) may be made
19 only by a Taxpayer that (i) is primarily engaged in one of
20 the following business activities: water purification and
21 treatment, motor vehicle metal stamping, automobile
22 manufacturing, automobile and light duty motor vehicle
23 manufacturing, motor vehicle manufacturing, light truck
24 and utility vehicle manufacturing, heavy duty truck
25 manufacturing, motor vehicle body manufacturing, cable
26 television infrastructure design or manufacturing, or

1 wireless telecommunication or computing terminal device
2 design or manufacturing for use on public networks and (ii)
3 meets the following criteria:

4 (A) the Taxpayer (i) had an Illinois net loss or an
5 Illinois net loss deduction under Section 207 of the
6 Illinois Income Tax Act for the taxable year in which
7 the Credit is awarded, (ii) employed a minimum of 1,000
8 full-time employees in this State during the taxable
9 year in which the Credit is awarded, (iii) has an
10 Agreement under this Act on December 14, 2009 (the
11 effective date of Public Act 96-834), and (iv) is in
12 compliance with all provisions of that Agreement;

13 (B) the Taxpayer (i) had an Illinois net loss or an
14 Illinois net loss deduction under Section 207 of the
15 Illinois Income Tax Act for the taxable year in which
16 the Credit is awarded, (ii) employed a minimum of 1,000
17 full-time employees in this State during the taxable
18 year in which the Credit is awarded, and (iii) has
19 applied for an Agreement within 365 days after December
20 14, 2009 (the effective date of Public Act 96-834);

21 (C) the Taxpayer (i) had an Illinois net operating
22 loss carryforward under Section 207 of the Illinois
23 Income Tax Act in a taxable year ending during calendar
24 year 2008, (ii) has applied for an Agreement within 150
25 days after the effective date of this amendatory Act of
26 the 96th General Assembly, (iii) creates at least 400

1 new jobs in Illinois, (iv) retains at least 2,000 jobs
2 in Illinois that would have been at risk of relocation
3 out of Illinois over a 10-year period, and (v) makes a
4 capital investment of at least \$75,000,000;

5 (D) the Taxpayer (i) had an Illinois net operating
6 loss carryforward under Section 207 of the Illinois
7 Income Tax Act in a taxable year ending during calendar
8 year 2009, (ii) has applied for an Agreement within 150
9 days after the effective date of this amendatory Act of
10 the 96th General Assembly, (iii) creates at least 150
11 new jobs, (iv) retains at least 1,000 jobs in Illinois
12 that would have been at risk of relocation out of
13 Illinois over a 10-year period, and (v) makes a capital
14 investment of at least \$57,000,000; or

15 (E) the Taxpayer (i) employed at least 2,500
16 full-time employees in the State during the year in
17 which the Credit is awarded, (ii) commits to make at
18 least \$500,000,000 in combined capital improvements
19 and project costs under the Agreement, (iii) applies
20 for an Agreement between January 1, 2011 and June 30,
21 2011, (iv) executes an Agreement for the Credit during
22 calendar year 2011, and (v) was incorporated no more
23 than 5 years before the filing of an application for an
24 Agreement.

25 (1.5) The election under this subsection (f) may also
26 be made by a Taxpayer for any Credit awarded pursuant to an

1 agreement that was executed between January 1, 2011 and
2 June 30, 2011, if the Taxpayer (i) is primarily engaged in
3 the manufacture of inner tubes or tires, or both, from
4 natural and synthetic rubber, (ii) employs a minimum of
5 2,400 full-time employees in Illinois at the time of
6 application, (iii) creates at least 350 full-time jobs and
7 retains at least 250 full-time jobs in Illinois that would
8 have been at risk of being created or retained outside of
9 Illinois, and (iv) makes a capital investment of at least
10 \$200,000,000 at the project location.

11 (1.6) The election under this subsection (f) may also
12 be made by a Taxpayer for any Credit awarded pursuant to an
13 agreement that was executed within 150 days after the
14 effective date of this amendatory Act of the 97th General
15 Assembly, if the Taxpayer (i) is primarily engaged in the
16 operation of a discount department store, (ii) maintains
17 its corporate headquarters in Illinois, (iii) employs a
18 minimum of 4,250 full-time employees at its corporate
19 headquarters in Illinois at the time of application, (iv)
20 retains at least 4,250 full-time jobs in Illinois that
21 would have been at risk of being relocated outside of
22 Illinois, (v) had a minimum of \$40,000,000,000 in total
23 revenue in 2010, and (vi) makes a capital investment of at
24 least \$300,000,000 at the project location.

25 (1.7) Notwithstanding any other provision of law, the
26 election under this subsection (f) may also be made by a

1 Taxpayer for any Credit awarded pursuant to an agreement
2 that was executed or applied for on or after July 1, 2011
3 and on or before March 31, 2012, if the Taxpayer is
4 primarily engaged in the manufacture of original and
5 aftermarket filtration parts and products for automobiles,
6 motor vehicles, light duty motor vehicles, light trucks and
7 utility vehicles, and heavy duty trucks, (ii) employs a
8 minimum of 1,000 full-time employees in Illinois at the
9 time of application, (iii) creates at least 250 full-time
10 jobs in Illinois, (iv) relocates its corporate
11 headquarters to Illinois from another state, and (v) makes
12 a capital investment of at least \$4,000,000 at the project
13 location.

14 (1.8) Notwithstanding any other provision of law, the
15 election under this subsection (f) may also be made by a
16 Taxpayer for any Credit awarded pursuant to an agreement
17 that was executed within 150 days after the effective date
18 of this amendatory Act of the 98th General Assembly if the
19 Taxpayer:

20 (A) is primarily engaged in agricultural
21 processing;

22 (B) maintains its corporate headquarters in
23 Illinois;

24 (C) employs a minimum of 200 full-time employees,
25 including (i) the creation of at least 100 full-time
26 equivalent jobs and (ii) the retention of at least 100

1 full-time jobs in Illinois that would have been at risk
2 of being relocated outside of Illinois;

3 (D) exported at least \$1,000,000,000 from Illinois
4 in 2012; and

5 (E) incurs at least \$20,000,000 in a combination of
6 capital and relocation expenses within Illinois.

7 (2) An election under this subsection shall allow the
8 credit to be taken against payments otherwise due under
9 Section 704A of the Illinois Income Tax Act during the
10 first calendar year beginning after the end of the taxable
11 year in which the credit is awarded under this Act.

12 (3) The election shall be made in the form and manner
13 required by the Illinois Department of Revenue and, once
14 made, shall be irrevocable.

15 (4) If a Taxpayer who meets the requirements of
16 subparagraph (A) of paragraph (1) of this subsection (f)
17 elects to claim the Credit against its withholdings as
18 provided in this subsection (f), then, on and after the
19 date of the election, the terms of the Agreement between
20 the Taxpayer and the Department may not be further amended
21 during the term of the Agreement.

22 (g) A pass-through entity that has been awarded a credit
23 under this Act, its shareholders, or its partners may treat
24 some or all of the credit awarded pursuant to this Act as a tax
25 payment for purposes of the Illinois Income Tax Act. The term
26 "tax payment" means a payment as described in Article 6 or

1 Article 8 of the Illinois Income Tax Act or a composite payment
2 made by a pass-through entity on behalf of any of its
3 shareholders or partners to satisfy such shareholders' or
4 partners' taxes imposed pursuant to subsections (a) and (b) of
5 Section 201 of the Illinois Income Tax Act. In no event shall
6 the amount of the award credited pursuant to this Act exceed
7 the Illinois income tax liability of the pass-through entity or
8 its shareholders or partners for the taxable year.

9 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
10 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
11 3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

12 Section 10. The Gas Revenue Tax Act is amended by changing
13 Section 1 as follows:

14 (35 ILCS 615/1) (from Ch. 120, par. 467.16)

15 Sec. 1. For the purposes of this Act: "Gross receipts"
16 means the consideration received for gas distributed,
17 supplied, furnished or sold to persons for use or consumption
18 and not for resale, and for all services (including the
19 transportation or storage of gas for an end-user) rendered in
20 connection therewith, and shall include cash, services and
21 property of every kind or nature, and shall be determined
22 without any deduction on account of the cost of the service,
23 product or commodity supplied, the cost of materials used,
24 labor or service costs, or any other expense whatsoever.

1 However, "gross receipts" shall not include receipts from:

2 (i) any minimum or other charge for gas or gas service
3 where the customer has taken no therms of gas;

4 (ii) any charge for a dishonored check;

5 (iii) any finance or credit charge, penalty or charge
6 for delayed payment, or discount for prompt payment;

7 (iv) any charge for reconnection of service or for
8 replacement or relocation of facilities;

9 (v) any advance or contribution in aid of construction;

10 (vi) repair, inspection or servicing of equipment
11 located on customer premises;

12 (vii) leasing or rental of equipment, the leasing or
13 rental of which is not necessary to distributing,
14 furnishing, supplying, selling, transporting or storing
15 gas;

16 (viii) any sale to a customer if the taxpayer is
17 prohibited by federal or State constitution, treaty,
18 convention, statute or court decision from recovering the
19 related tax liability from such customer;

20 (ix) any charges added to customers' bills pursuant to
21 the provisions of Section 9-221 or Section 9-222 of the
22 Public Utilities Act, as amended, or any charges added to
23 customers' bills by taxpayers who are not subject to rate
24 regulation by the Illinois Commerce Commission for the
25 purpose of recovering any of the tax liabilities or other
26 amounts specified in such provisions of such Act; and

1 (x) prior to October 1, 2003, any charge for gas or gas
2 services to a customer who acquired contractual rights for
3 the direct purchase of gas or gas services originating from
4 an out-of-state supplier or source on or before March 1,
5 1995, except for those charges solely related to the local
6 distribution of gas by a public utility. This exemption
7 includes any charge for gas or gas service, except for
8 those charges solely related to the local distribution of
9 gas by a public utility, to a customer who maintained an
10 account with a public utility (as defined in Section 3-105
11 of the Public Utilities Act) for the transportation of
12 customer-owned gas on or before March 1, 1995. The
13 provisions of this amendatory Act of 1997 are intended to
14 clarify, rather than change, existing law as to the meaning
15 and scope of this exemption. This exemption (x) expires on
16 September 30, 2003.

17 In case credit is extended, the amount thereof shall be
18 included only as and when payments are received.

19 "Gross receipts" shall not include consideration received
20 from business enterprises certified under Section 9-222.1 of
21 the Public Utilities Act, as amended, to the extent of such
22 exemption and during the period of time specified by the
23 Department of Commerce and Economic Opportunity.

24 "Gross receipts" shall not include 10% of the
25 consideration received from business enterprises certified
26 under Section 9-222.1B of the Public Utilities Act, as amended,

1 during the period of time specified by the Department of
2 Commerce and Economic Opportunity in the certification.

3 "Department" means the Department of Revenue of the State
4 of Illinois.

5 "Director" means the Director of Revenue for the Department
6 of Revenue of the State of Illinois.

7 "Taxpayer" means a person engaged in the business of
8 distributing, supplying, furnishing or selling gas for use or
9 consumption and not for resale.

10 "Person" means any natural individual, firm, trust,
11 estate, partnership, association, joint stock company, joint
12 adventure, corporation, limited liability company, or a
13 receiver, trustee, guardian or other representative appointed
14 by order of any court, or any city, town, county or other
15 political subdivision of this State.

16 "Invested capital" means that amount equal to (i) the
17 average of the balances at the beginning and end of each
18 taxable period of the taxpayer's total stockholder's equity and
19 total long-term debt, less investments in and advances to all
20 corporations, as set forth on the balance sheets included in
21 the taxpayer's annual report to the Illinois Commerce
22 Commission for the taxable period; (ii) multiplied by a
23 fraction determined under Sections 301 and 304(a) of the
24 "Illinois Income Tax Act" and reported on the Illinois income
25 tax return for the taxable period ending in or with the taxable
26 period in question. However, notwithstanding the income tax

1 return reporting requirement stated above, beginning July 1,
2 1979, no taxpayer's denominators used to compute the sales,
3 property or payroll factors under subsection (a) of Section 304
4 of the Illinois Income Tax Act shall include payroll, property
5 or sales of any corporate entity other than the taxpayer for
6 the purposes of determining an allocation for the invested
7 capital tax. This amendatory Act of 1982, Public Act 82-1024,
8 is not intended to and does not make any change in the meaning
9 of any provision of this Act, it having been the intent of the
10 General Assembly in initially enacting the definition of
11 "invested capital" to provide for apportionment of the invested
12 capital of each company, based solely upon the sales, property
13 and payroll of that company.

14 "Taxable period" means each period which ends after the
15 effective date of this Act and which is covered by an annual
16 report filed by the taxpayer with the Illinois Commerce
17 Commission.

18 (Source: P.A. 93-31, eff. 10-1-03; 94-793, eff. 5-19-06.)

19 Section 15. The Electricity Excise Tax Law is amended by
20 changing Sections 2-3 and 2-4 as follows:

21 (35 ILCS 640/2-3)

22 Sec. 2-3. Definitions. As used in this Law, unless the
23 context clearly requires otherwise:

24 (a) "Department" means the Department of Revenue of the

1 State of Illinois.

2 (b) "Director" means the Director of the Department of
3 Revenue of the State of Illinois.

4 (c) "Person" means any natural individual, firm, trust,
5 estate, partnership, association, joint stock company, joint
6 venture, corporation, limited liability company, or a
7 receiver, trustee, guardian, or other representative appointed
8 by order of any court, or any city, town, village, county, or
9 other political subdivision of this State.

10 (d) "Purchase price" means the consideration paid for the
11 distribution, supply, furnishing, sale, transmission or
12 delivery of electricity to a person for non-residential use or
13 consumption (and for both residential and non-residential use
14 or consumption in the case of electricity purchased from a
15 municipal system or electric cooperative described in
16 subsection (b) of Section 2-4) and not for resale, and for all
17 services directly related to the production, transmission or
18 distribution of electricity distributed, supplied, furnished,
19 sold, transmitted or delivered for non-residential use or
20 consumption, and includes transition charges imposed in
21 accordance with Article XVI of the Public Utilities Act and
22 instrument funding charges imposed in accordance with Article
23 XVIII of the Public Utilities Act, as well as cash, services
24 and property of every kind or nature, and shall be determined
25 without any deduction on account of the cost of the service,
26 product or commodity supplied, the cost of materials used,

1 labor or service costs, or any other expense whatsoever.
2 However, "purchase price" shall not include consideration paid
3 for:

4 (i) any charge for a dishonored check;

5 (ii) any finance or credit charge, penalty or charge
6 for delayed payment, or discount for prompt payment;

7 (iii) any charge for reconnection of service or for
8 replacement or relocation of facilities;

9 (iv) any advance or contribution in aid of
10 construction;

11 (v) repair, inspection or servicing of equipment
12 located on customer premises;

13 (vi) leasing or rental of equipment, the leasing or
14 rental of which is not necessary to furnishing, supplying
15 or selling electricity;

16 (vii) any purchase by a purchaser if the supplier is
17 prohibited by federal or State constitution, treaty,
18 convention, statute or court decision from recovering the
19 related tax liability from such purchaser; and

20 (viii) any amounts added to purchasers' bills because
21 of charges made pursuant to the tax imposed by this Law.

22 In case credit is extended, the amount thereof shall be
23 included only as and when payments are made.

24 "Purchase price" shall not include consideration received
25 from business enterprises certified under Section 9-222.1 or
26 9-222.1A of the Public Utilities Act, as amended, to the extent

1 of such exemption and during the period of time specified by
2 the Department of Commerce and Economic Opportunity.

3 "Purchase price" shall not include 10% of the
4 consideration received from business enterprises certified
5 under Section 9-222.1B of the Public Utilities Act, as amended,
6 during the period of time specified by the Department of
7 Commerce and Economic Opportunity in the certification.

8 (e) "Purchaser" means any person who acquires electricity
9 for use or consumption and not for resale, for a valuable
10 consideration.

11 (f) "Non-residential electric use" means any use or
12 consumption of electricity which is not residential electric
13 use.

14 (g) "Residential electric use" means electricity used or
15 consumed at a dwelling of 2 or fewer units, or electricity for
16 household purposes used or consumed at a building with multiple
17 dwelling units where the electricity is registered by a
18 separate meter for each dwelling unit.

19 (h) "Self-assessing purchaser" means a purchaser for
20 non-residential electric use who elects to register with and to
21 pay tax directly to the Department in accordance with Sections
22 2-10 and 2-11 of this Law.

23 (i) "Delivering supplier" means any person engaged in the
24 business of delivering electricity to persons for use or
25 consumption and not for resale, but not an entity engaged in
26 the practice of resale and redistribution of electricity within

1 a building prior to January 2, 1957, and who, in any case where
2 more than one person participates in the delivery of
3 electricity to a specific purchaser, is the last of the
4 suppliers engaged in delivering the electricity prior to its
5 receipt by the purchaser.

6 (j) "Delivering supplier maintaining a place of business in
7 this State", or any like term, means any delivering supplier
8 having or maintaining within this State, directly or by a
9 subsidiary, an office, generation facility, transmission
10 facility, distribution facility, sales office or other place of
11 business, or any employee, agent or other representative
12 operating within this State under the authority of such
13 delivering supplier or such delivering supplier's subsidiary,
14 irrespective of whether such place of business or agent or
15 other representative is located in this State permanently or
16 temporarily, or whether such delivering supplier or such
17 delivering supplier's subsidiary is licensed to do business in
18 this State.

19 (k) "Use" means the exercise by any person of any right or
20 power over electricity incident to the ownership of that
21 electricity, except that it does not include the generation,
22 production, transmission, distribution, delivery or sale of
23 electricity in the regular course of business or the use of
24 electricity for such purposes.

25 (Source: P.A. 94-793, eff. 5-19-06.)

1 (35 ILCS 640/2-4)

2 Sec. 2-4. Tax imposed.

3 (a) Except as provided in subsection (b), a tax is imposed
4 on the privilege of using in this State electricity purchased
5 for use or consumption and not for resale, other than by
6 municipal corporations owning and operating a local
7 transportation system for public service, at the following
8 rates per kilowatt-hour delivered to the purchaser:

9 (i) For the first 2000 kilowatt-hours used or consumed
10 in a month: 0.330 cents per kilowatt-hour;

11 (ii) For the next 48,000 kilowatt-hours used or
12 consumed in a month: 0.319 cents per kilowatt-hour;

13 (iii) For the next 50,000 kilowatt-hours used or
14 consumed in a month: 0.303 cents per kilowatt-hour;

15 (iv) For the next 400,000 kilowatt-hours used or
16 consumed in a month: 0.297 cents per kilowatt-hour;

17 (v) For the next 500,000 kilowatt-hours used or
18 consumed in a month: 0.286 cents per kilowatt-hour;

19 (vi) For the next 2,000,000 kilowatt-hours used or
20 consumed in a month: 0.270 cents per kilowatt-hour;

21 (vii) For the next 2,000,000 kilowatt-hours used or
22 consumed in a month: 0.254 cents per kilowatt-hour;

23 (viii) For the next 5,000,000 kilowatt-hours used or
24 consumed in a month: 0.233 cents per kilowatt-hour;

25 (ix) For the next 10,000,000 kilowatt-hours used or
26 consumed in a month: 0.207 cents per kilowatt-hour;

1 (x) For all electricity in excess of 20,000,000
2 kilowatt-hours used or consumed in a month: 0.202 cents per
3 kilowatt-hour.

4 Provided, that in lieu of the foregoing rates, the tax is
5 imposed on a self-assessing purchaser at the rate of 5.1% of
6 the self-assessing purchaser's purchase price for all
7 electricity distributed, supplied, furnished, sold,
8 transmitted and delivered to the self-assessing purchaser in a
9 month.

10 (b) A tax is imposed on the privilege of using in this
11 State electricity purchased from a municipal system or electric
12 cooperative, as defined in Article XVII of the Public Utilities
13 Act, which has not made an election as permitted by either
14 Section 17-200 or Section 17-300 of such Act, at the lesser of
15 0.32 cents per kilowatt hour of all electricity distributed,
16 supplied, furnished, sold, transmitted, and delivered by such
17 municipal system or electric cooperative to the purchaser or 5%
18 of each such purchaser's purchase price for all electricity
19 distributed, supplied, furnished, sold, transmitted, and
20 delivered by such municipal system or electric cooperative to
21 the purchaser, whichever is the lower rate as applied to each
22 purchaser in each billing period.

23 (c) The tax imposed by this Section 2-4 is not imposed with
24 respect to any use of electricity by business enterprises
25 certified under Section 9-222.1, ~~or~~ 9-222.1A, or 9-222.1B of
26 the Public Utilities Act, as amended, to the extent of such

1 exemption and during the time specified by the Department of
2 Commerce and Economic Opportunity; or with respect to any
3 transaction in interstate commerce, or otherwise, to the extent
4 to which such transaction may not, under the Constitution and
5 statutes of the United States, be made the subject of taxation
6 by this State.

7 (Source: P.A. 94-793, eff. 5-19-06.)

8 Section 20. The Illinois Municipal Code is amended by
9 changing Section 8-11-2 as follows:

10 (65 ILCS 5/8-11-2) (from Ch. 24, par. 8-11-2)

11 Sec. 8-11-2. The corporate authorities of any municipality
12 may tax any or all of the following occupations or privileges:

13 1. (Blank).

14 2. Persons engaged in the business of distributing,
15 supplying, furnishing, or selling gas for use or
16 consumption within the corporate limits of a municipality
17 of 500,000 or fewer population, and not for resale, at a
18 rate not to exceed 5% of the gross receipts therefrom.

19 2a. Persons engaged in the business of distributing,
20 supplying, furnishing, or selling gas for use or
21 consumption within the corporate limits of a municipality
22 of over 500,000 population, and not for resale, at a rate
23 not to exceed 8% of the gross receipts therefrom. If
24 imposed, this tax shall be paid in monthly payments.

1 3. The privilege of using or consuming electricity
2 acquired in a purchase at retail and used or consumed
3 within the corporate limits of the municipality at rates
4 not to exceed the following maximum rates, calculated on a
5 monthly basis for each purchaser:

6 (i) For the first 2,000 kilowatt-hours used or
7 consumed in a month; 0.61 cents per kilowatt-hour;

8 (ii) For the next 48,000 kilowatt-hours used or
9 consumed in a month; 0.40 cents per kilowatt-hour;

10 (iii) For the next 50,000 kilowatt-hours used or
11 consumed in a month; 0.36 cents per kilowatt-hour;

12 (iv) For the next 400,000 kilowatt-hours used or
13 consumed in a month; 0.35 cents per kilowatt-hour;

14 (v) For the next 500,000 kilowatt-hours used or
15 consumed in a month; 0.34 cents per kilowatt-hour;

16 (vi) For the next 2,000,000 kilowatt-hours used or
17 consumed in a month; 0.32 cents per kilowatt-hour;

18 (vii) For the next 2,000,000 kilowatt-hours used
19 or consumed in a month; 0.315 cents per kilowatt-hour;

20 (viii) For the next 5,000,000 kilowatt-hours used
21 or consumed in a month; 0.31 cents per kilowatt-hour;

22 (ix) For the next 10,000,000 kilowatt-hours used
23 or consumed in a month; 0.305 cents per kilowatt-hour;

24 and

25 (x) For all electricity used or consumed in excess
26 of 20,000,000 kilowatt-hours in a month, 0.30 cents per

1 kilowatt-hour.

2 If a municipality imposes a tax at rates lower than
3 either the maximum rates specified in this Section or the
4 alternative maximum rates promulgated by the Illinois
5 Commerce Commission, as provided below, the tax rates shall
6 be imposed upon the kilowatt hour categories set forth
7 above with the same proportional relationship as that which
8 exists among such maximum rates. Notwithstanding the
9 foregoing, until December 31, 2008, no municipality shall
10 establish rates that are in excess of rates reasonably
11 calculated to produce revenues that equal the maximum total
12 revenues such municipality could have received under the
13 tax authorized by this subparagraph in the last full
14 calendar year prior to the effective date of Section 65 of
15 this amendatory Act of 1997; provided that this shall not
16 be a limitation on the amount of tax revenues actually
17 collected by such municipality.

18 Upon the request of the corporate authorities of a
19 municipality, the Illinois Commerce Commission shall,
20 within 90 days after receipt of such request, promulgate
21 alternative rates for each of these kilowatt-hour
22 categories that will reflect, as closely as reasonably
23 practical for that municipality, the distribution of the
24 tax among classes of purchasers as if the tax were based on
25 a uniform percentage of the purchase price of electricity.
26 A municipality that has adopted an ordinance imposing a tax

1 pursuant to subparagraph 3 as it existed prior to the
2 effective date of Section 65 of this amendatory Act of 1997
3 may, rather than imposing the tax permitted by this
4 amendatory Act of 1997, continue to impose the tax pursuant
5 to that ordinance with respect to gross receipts received
6 from residential customers through July 31, 1999, and with
7 respect to gross receipts from any non-residential
8 customer until the first bill issued to such customer for
9 delivery services in accordance with Section 16-104 of the
10 Public Utilities Act but in no case later than the last
11 bill issued to such customer before December 31, 2000. No
12 ordinance imposing the tax permitted by this amendatory Act
13 of 1997 shall be applicable to any non-residential customer
14 until the first bill issued to such customer for delivery
15 services in accordance with Section 16-104 of the Public
16 Utilities Act but in no case later than the last bill
17 issued to such non-residential customer before December
18 31, 2000.

19 4. Persons engaged in the business of distributing,
20 supplying, furnishing, or selling water for use or
21 consumption within the corporate limits of the
22 municipality, and not for resale, at a rate not to exceed
23 5% of the gross receipts therefrom.

24 None of the taxes authorized by this Section may be imposed
25 with respect to any transaction in interstate commerce or
26 otherwise to the extent to which the business or privilege may

1 not, under the constitution and statutes of the United States,
2 be made the subject of taxation by this State or any political
3 sub-division thereof; nor shall any persons engaged in the
4 business of distributing, supplying, furnishing, selling or
5 transmitting gas, water, or electricity, or using or consuming
6 electricity acquired in a purchase at retail, be subject to
7 taxation under the provisions of this Section for those
8 transactions that are or may become subject to taxation under
9 the provisions of the "Municipal Retailers' Occupation Tax Act"
10 authorized by Section 8-11-1; nor shall any tax authorized by
11 this Section be imposed upon any person engaged in a business
12 or on any privilege unless the tax is imposed in like manner
13 and at the same rate upon all persons engaged in businesses of
14 the same class in the municipality, whether privately or
15 municipally owned or operated, or exercising the same privilege
16 within the municipality.

17 Any of the taxes enumerated in this Section may be in
18 addition to the payment of money, or value of products or
19 services furnished to the municipality by the taxpayer as
20 compensation for the use of its streets, alleys, or other
21 public places, or installation and maintenance therein,
22 thereon or thereunder of poles, wires, pipes or other equipment
23 used in the operation of the taxpayer's business.

24 (a) If the corporate authorities of any home rule
25 municipality have adopted an ordinance that imposed a tax on
26 public utility customers, between July 1, 1971, and October 1,

1 1981, on the good faith belief that they were exercising
2 authority pursuant to Section 6 of Article VII of the 1970
3 Illinois Constitution, that action of the corporate
4 authorities shall be declared legal and valid, notwithstanding
5 a later decision of a judicial tribunal declaring the ordinance
6 invalid. No municipality shall be required to rebate, refund,
7 or issue credits for any taxes described in this paragraph, and
8 those taxes shall be deemed to have been levied and collected
9 in accordance with the Constitution and laws of this State.

10 (b) In any case in which (i) prior to October 19, 1979, the
11 corporate authorities of any municipality have adopted an
12 ordinance imposing a tax authorized by this Section (or by the
13 predecessor provision of the "Revised Cities and Villages Act")
14 and have explicitly or in practice interpreted gross receipts
15 to include either charges added to customers' bills pursuant to
16 the provision of paragraph (a) of Section 36 of the Public
17 Utilities Act or charges added to customers' bills by taxpayers
18 who are not subject to rate regulation by the Illinois Commerce
19 Commission for the purpose of recovering any of the tax
20 liabilities or other amounts specified in such paragraph (a) of
21 Section 36 of that Act, and (ii) on or after October 19, 1979,
22 a judicial tribunal has construed gross receipts to exclude all
23 or part of those charges, then neither those municipality nor
24 any taxpayer who paid the tax shall be required to rebate,
25 refund, or issue credits for any tax imposed or charge
26 collected from customers pursuant to the municipality's

1 interpretation prior to October 19, 1979. This paragraph
2 reflects a legislative finding that it would be contrary to the
3 public interest to require a municipality or its taxpayers to
4 refund taxes or charges attributable to the municipality's more
5 inclusive interpretation of gross receipts prior to October 19,
6 1979, and is not intended to prescribe or limit judicial
7 construction of this Section. The legislative finding set forth
8 in this subsection does not apply to taxes imposed after the
9 effective date of this amendatory Act of 1995.

10 (c) The tax authorized by subparagraph 3 shall be collected
11 from the purchaser by the person maintaining a place of
12 business in this State who delivers the electricity to the
13 purchaser. This tax shall constitute a debt of the purchaser to
14 the person who delivers the electricity to the purchaser and if
15 unpaid, is recoverable in the same manner as the original
16 charge for delivering the electricity. Any tax required to be
17 collected pursuant to an ordinance authorized by subparagraph 3
18 and any such tax collected by a person delivering electricity
19 shall constitute a debt owed to the municipality by such person
20 delivering the electricity, provided, that the person
21 delivering electricity shall be allowed credit for such tax
22 related to deliveries of electricity the charges for which are
23 written off as uncollectible, and provided further, that if
24 such charges are thereafter collected, the delivering supplier
25 shall be obligated to remit such tax. For purposes of this
26 subsection (c), any partial payment not specifically

1 identified by the purchaser shall be deemed to be for the
2 delivery of electricity. Persons delivering electricity shall
3 collect the tax from the purchaser by adding such tax to the
4 gross charge for delivering the electricity, in the manner
5 prescribed by the municipality. Persons delivering electricity
6 shall also be authorized to add to such gross charge an amount
7 equal to 3% of the tax to reimburse the person delivering
8 electricity for the expenses incurred in keeping records,
9 billing customers, preparing and filing returns, remitting the
10 tax and supplying data to the municipality upon request. If the
11 person delivering electricity fails to collect the tax from the
12 purchaser, then the purchaser shall be required to pay the tax
13 directly to the municipality in the manner prescribed by the
14 municipality. Persons delivering electricity who file returns
15 pursuant to this paragraph (c) shall, at the time of filing
16 such return, pay the municipality the amount of the tax
17 collected pursuant to subparagraph 3.

18 (d) For the purpose of the taxes enumerated in this
19 Section:

20 "Gross receipts" means the consideration received for
21 distributing, supplying, furnishing or selling gas for use or
22 consumption and not for resale, and the consideration received
23 for distributing, supplying, furnishing or selling water for
24 use or consumption and not for resale, and for all services
25 rendered in connection therewith valued in money, whether
26 received in money or otherwise, including cash, credit,

1 services and property of every kind and material and for all
2 services rendered therewith, and shall be determined without
3 any deduction on account of the cost of the service, product or
4 commodity supplied, the cost of materials used, labor or
5 service cost, or any other expenses whatsoever. "Gross
6 receipts" shall not include that portion of the consideration
7 received for distributing, supplying, furnishing, or selling
8 gas or water to business enterprises described in paragraph (e)
9 or (e-5) of this Section to the extent and during the period in
10 which the exemption authorized by paragraph (e) or (e-5) is in
11 effect or for school districts or units of local government
12 described in paragraph (f) during the period in which the
13 exemption authorized in paragraph (f) is in effect.

14 For utility bills issued on or after May 1, 1996, but
15 before May 1, 1997, and for receipts from those utility bills,
16 "gross receipts" does not include one-third of (i) amounts
17 added to customers' bills under Section 9-222 of the Public
18 Utilities Act, or (ii) amounts added to customers' bills by
19 taxpayers who are not subject to rate regulation by the
20 Illinois Commerce Commission for the purpose of recovering any
21 of the tax liabilities described in Section 9-222 of the Public
22 Utilities Act. For utility bills issued on or after May 1,
23 1997, but before May 1, 1998, and for receipts from those
24 utility bills, "gross receipts" does not include two-thirds of
25 (i) amounts added to customers' bills under Section 9-222 of
26 the Public Utilities Act, or (ii) amount added to customers'

1 bills by taxpayers who are not subject to rate regulation by
2 the Illinois Commerce Commission for the purpose of recovering
3 any of the tax liabilities described in Section 9-222 of the
4 Public Utilities Act. For utility bills issued on or after May
5 1, 1998, and for receipts from those utility bills, "gross
6 receipts" does not include (i) amounts added to customers'
7 bills under Section 9-222 of the Public Utilities Act, or (ii)
8 amounts added to customers' bills by taxpayers who are not
9 subject to rate regulation by the Illinois Commerce Commission
10 for the purpose of recovering any of the tax liabilities
11 described in Section 9-222 of the Public Utilities Act.

12 For purposes of this Section "gross receipts" shall not
13 include amounts added to customers' bills under Section 9-221
14 of the Public Utilities Act. This paragraph is not intended to
15 nor does it make any change in the meaning of "gross receipts"
16 for the purposes of this Section, but is intended to remove
17 possible ambiguities, thereby confirming the existing meaning
18 of "gross receipts" prior to the effective date of this
19 amendatory Act of 1995.

20 "Person" as used in this Section means any natural
21 individual, firm, trust, estate, partnership, association,
22 joint stock company, joint adventure, corporation, limited
23 liability company, municipal corporation, the State or any of
24 its political subdivisions, any State university created by
25 statute, or a receiver, trustee, guardian or other
26 representative appointed by order of any court.

1 "Person maintaining a place of business in this State"
2 shall mean any person having or maintaining within this State,
3 directly or by a subsidiary or other affiliate, an office,
4 generation facility, distribution facility, transmission
5 facility, sales office or other place of business, or any
6 employee, agent, or other representative operating within this
7 State under the authority of the person or its subsidiary or
8 other affiliate, irrespective of whether such place of business
9 or agent or other representative is located in this State
10 permanently or temporarily, or whether such person, subsidiary
11 or other affiliate is licensed or qualified to do business in
12 this State.

13 "Public utility" shall have the meaning ascribed to it in
14 Section 3-105 of the Public Utilities Act and shall include
15 alternative retail electric suppliers as defined in Section
16 16-102 of that Act.

17 "Purchase at retail" shall mean any acquisition of
18 electricity by a purchaser for purposes of use or consumption,
19 and not for resale, but shall not include the use of
20 electricity by a public utility directly in the generation,
21 production, transmission, delivery or sale of electricity.

22 "Purchaser" shall mean any person who uses or consumes,
23 within the corporate limits of the municipality, electricity
24 acquired in a purchase at retail.

25 (e) Any municipality that imposes taxes upon public
26 utilities or upon the privilege of using or consuming

1 electricity pursuant to this Section whose territory includes
2 any part of an enterprise zone or federally designated Foreign
3 Trade Zone or Sub-Zone may, by a majority vote of its corporate
4 authorities, exempt from those taxes for a period not exceeding
5 20 years any specified percentage of gross receipts of public
6 utilities received from, or electricity used or consumed by,
7 business enterprises that:

8 (1) either (i) make investments that cause the creation
9 of a minimum of 200 full-time equivalent jobs in Illinois,
10 (ii) make investments of at least \$175,000,000 that cause
11 the creation of a minimum of 150 full-time equivalent jobs
12 in Illinois, or (iii) make investments that cause the
13 retention of a minimum of 1,000 full-time jobs in Illinois;
14 and

15 (2) are either (i) located in an Enterprise Zone
16 established pursuant to the Illinois Enterprise Zone Act or
17 (ii) Department of Commerce and Economic Opportunity
18 designated High Impact Businesses located in a federally
19 designated Foreign Trade Zone or Sub-Zone; and

20 (3) are certified by the Department of Commerce and
21 Economic Opportunity as complying with the requirements
22 specified in clauses (1) and (2) of this paragraph (e).

23 Upon adoption of the ordinance authorizing the exemption,
24 the municipal clerk shall transmit a copy of that ordinance to
25 the Department of Commerce and Economic Opportunity. The
26 Department of Commerce and Economic Opportunity shall

1 determine whether the business enterprises located in the
2 municipality meet the criteria prescribed in this paragraph. If
3 the Department of Commerce and Economic Opportunity determines
4 that the business enterprises meet the criteria, it shall grant
5 certification. The Department of Commerce and Economic
6 Opportunity shall act upon certification requests within 30
7 days after receipt of the ordinance.

8 Upon certification of the business enterprise by the
9 Department of Commerce and Economic Opportunity, the
10 Department of Commerce and Economic Opportunity shall notify
11 the Department of Revenue of the certification. The Department
12 of Revenue shall notify the public utilities of the exemption
13 status of the gross receipts received from, and the electricity
14 used or consumed by, the certified business enterprises. Such
15 exemption status shall be effective within 3 months after
16 certification.

17 (e-5) Any municipality that imposes taxes upon public
18 utilities or upon the privilege of using or consuming
19 electricity pursuant to this Section may, by ordinance, exempt
20 from those taxes, for a period not exceeding 30 years, a
21 specified percentage not to exceed 10% of the gross receipts of
22 public utilities received from, or electricity used or consumed
23 by, a qualified business enterprise.

24 Upon adoption of the ordinance authorizing the reduction,
25 the municipal clerk shall transmit a copy of that ordinance to
26 the Department of Commerce and Economic Opportunity. The

1 Department of Commerce and Economic Opportunity shall
2 determine whether the business enterprise located in the
3 municipality meets the criteria prescribed in this subsection
4 (e-5). If the Department of Commerce and Economic Opportunity
5 determines that the business enterprise is a qualified business
6 enterprise, it shall grant certification. The Department of
7 Commerce and Economic Opportunity shall act upon certification
8 requests within 30 days after receipt of the ordinance.

9 Upon certification of the business enterprise by the
10 Department of Commerce and Economic Opportunity, the
11 Department of Commerce and Economic Opportunity shall notify
12 the Department of Revenue of the certification. The Department
13 of Revenue shall notify the public utilities of the reduction.
14 The reduction shall be effective within 3 months after
15 certification by the Department of Commerce and Economic
16 Opportunity.

17 The qualified business enterprise shall certify relocation
18 of the 100 full-time equivalent jobs and creation of 100
19 full-time equivalent jobs to the Department of Commerce and
20 Economic Opportunity within 48 months after the effective date
21 of the ordinance.

22 The Department of Commerce and Economic Opportunity shall
23 have the power to promulgate rules and regulations to carry out
24 the provisions of this subsection, including, but not limited
25 to, rules authorizing the Department of Commerce and Economic
26 Opportunity to suspend the exemption available to a qualified

1 business enterprise should the business enterprise fail to
2 comply with the terms and conditions of the certification.

3 As used in this subsection (e-5), a "qualified business
4 enterprise" is a business enterprise that:

5 (1) is engaged in agricultural processing;

6 (2) pledges to make investments which cause the
7 creation of a minimum of 100 full-time equivalent jobs and
8 the retention of 100 full-time equivalent jobs in Illinois;
9 and

10 (3) is certified by the Department of Commerce and
11 Economic Opportunity as complying with the requirements
12 specified in items (1) and (2) of this subsection.

13 (f) A municipality that imposes taxes upon public utilities
14 or upon the privilege of using or consuming electricity under
15 this Section and whose territory includes part of another unit
16 of local government or a school district may by ordinance
17 exempt the other unit of local government or school district
18 from those taxes.

19 (g) The amendment of this Section by Public Act 84-127
20 shall take precedence over any other amendment of this Section
21 by any other amendatory Act passed by the 84th General Assembly
22 before the effective date of Public Act 84-127.

23 (h) In any case in which, before July 1, 1992, a person
24 engaged in the business of transmitting messages through the
25 use of mobile equipment, such as cellular phones and paging
26 systems, has determined the municipality within which the gross

1 receipts from the business originated by reference to the
2 location of its transmitting or switching equipment, then (i)
3 neither the municipality to which tax was paid on that basis
4 nor the taxpayer that paid tax on that basis shall be required
5 to rebate, refund, or issue credits for any such tax or charge
6 collected from customers to reimburse the taxpayer for the tax
7 and (ii) no municipality to which tax would have been paid with
8 respect to those gross receipts if the provisions of this
9 amendatory Act of 1991 had been in effect before July 1, 1992,
10 shall have any claim against the taxpayer for any amount of the
11 tax.

12 (Source: P.A. 94-793, eff. 5-19-06.)

13 Section 25. The Public Utilities Act is amended by changing
14 Sections 2-202, 9-221, and 9-222 and by adding Section 9-222.1B
15 as follows:

16 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

17 Sec. 2-202. Policy; Public Utility Fund; tax.

18 (a) It is declared to be the public policy of this State
19 that in order to maintain and foster the effective regulation
20 of public utilities under this Act in the interests of the
21 People of the State of Illinois and the public utilities as
22 well, the public utilities subject to regulation under this Act
23 and which enjoy the privilege of operating as public utilities
24 in this State, shall bear the expense of administering this Act

1 by means of a tax on such privilege measured by the annual
2 gross revenue of such public utilities in the manner provided
3 in this Section. For purposes of this Section, "expense of
4 administering this Act" includes any costs incident to studies,
5 whether made by the Commission or under contract entered into
6 by the Commission, concerning environmental pollution problems
7 caused or contributed to by public utilities and the means for
8 eliminating or abating those problems. Such proceeds shall be
9 deposited in the Public Utility Fund in the State treasury.

10 (b) All of the ordinary and contingent expenses of the
11 Commission incident to the administration of this Act shall be
12 paid out of the Public Utility Fund except the compensation of
13 the members of the Commission which shall be paid from the
14 General Revenue Fund. Notwithstanding other provisions of this
15 Act to the contrary, the ordinary and contingent expenses of
16 the Commission incident to the administration of the Illinois
17 Commercial Transportation Law may be paid from appropriations
18 from the Public Utility Fund through the end of fiscal year
19 1986.

20 (c) A tax is imposed upon each public utility subject to
21 the provisions of this Act equal to .08% of its gross revenue
22 for each calendar year commencing with the calendar year
23 beginning January 1, 1982, except that the Commission may, by
24 rule, establish a different rate no greater than 0.1%. For
25 purposes of this Section, "gross revenue" shall not include
26 revenue from the production, transmission, distribution, sale,

1 delivery, or furnishing of electricity. "Gross revenue" shall
2 not include amounts paid by telecommunications retailers under
3 the Telecommunications Infrastructure Maintenance Fee Act.
4 "Gross revenue" shall not include 10% of the consideration
5 received from business enterprises certified under Section
6 9-222.1B of the Public Utilities Act, as amended, during the
7 period of time specified by the Department of Commerce and
8 Economic Opportunity in the certification.

9 (d) Annual gross revenue returns shall be filed in
10 accordance with paragraph (1) or (2) of this subsection (d).

11 (1) Except as provided in paragraph (2) of this
12 subsection (d), on or before January 10 of each year each
13 public utility subject to the provisions of this Act shall
14 file with the Commission an estimated annual gross revenue
15 return containing an estimate of the amount of its gross
16 revenue for the calendar year commencing January 1 of said
17 year and a statement of the amount of tax due for said
18 calendar year on the basis of that estimate. Public
19 utilities may also file revised returns containing updated
20 estimates and updated amounts of tax due during the
21 calendar year. These revised returns, if filed, shall form
22 the basis for quarterly payments due during the remainder
23 of the calendar year. In addition, on or before March 31 of
24 each year, each public utility shall file an amended return
25 showing the actual amount of gross revenues shown by the
26 company's books and records as of December 31 of the

1 previous year. Forms and instructions for such estimated,
2 revised, and amended returns shall be devised and supplied
3 by the Commission.

4 (2) Beginning with returns due after January 1, 2002,
5 the requirements of paragraph (1) of this subsection (d)
6 shall not apply to any public utility in any calendar year
7 for which the total tax the public utility owes under this
8 Section is less than \$10,000. For such public utilities
9 with respect to such years, the public utility shall file
10 with the Commission, on or before March 31 of the following
11 year, an annual gross revenue return for the year and a
12 statement of the amount of tax due for that year on the
13 basis of such a return. Forms and instructions for such
14 returns and corrected returns shall be devised and supplied
15 by the Commission.

16 (e) All returns submitted to the Commission by a public
17 utility as provided in this subsection (e) or subsection (d) of
18 this Section shall contain or be verified by a written
19 declaration by an appropriate officer of the public utility
20 that the return is made under the penalties of perjury. The
21 Commission may audit each such return submitted and may, under
22 the provisions of Section 5-101 of this Act, take such measures
23 as are necessary to ascertain the correctness of the returns
24 submitted. The Commission has the power to direct the filing of
25 a corrected return by any utility which has filed an incorrect
26 return and to direct the filing of a return by any utility

1 which has failed to submit a return. A taxpayer's signing a
2 fraudulent return under this Section is perjury, as defined in
3 Section 32-2 of the Criminal Code of 2012.

4 (f) (1) For all public utilities subject to paragraph (1)
5 of subsection (d), at least one quarter of the annual amount of
6 tax due under subsection (c) shall be paid to the Commission on
7 or before the tenth day of January, April, July, and October of
8 the calendar year subject to tax. In the event that an
9 adjustment in the amount of tax due should be necessary as a
10 result of the filing of an amended or corrected return under
11 subsection (d) or subsection (e) of this Section, the amount of
12 any deficiency shall be paid by the public utility together
13 with the amended or corrected return and the amount of any
14 excess shall, after the filing of a claim for credit by the
15 public utility, be returned to the public utility in the form
16 of a credit memorandum in the amount of such excess or be
17 refunded to the public utility in accordance with the
18 provisions of subsection (k) of this Section. However, if such
19 deficiency or excess is less than \$1, then the public utility
20 need not pay the deficiency and may not claim a credit.

21 (2) Any public utility subject to paragraph (2) of
22 subsection (d) shall pay the amount of tax due under subsection
23 (c) on or before March 31 next following the end of the
24 calendar year subject to tax. In the event that an adjustment
25 in the amount of tax due should be necessary as a result of the
26 filing of a corrected return under subsection (e), the amount

1 of any deficiency shall be paid by the public utility at the
2 time the corrected return is filed. Any excess tax payment by
3 the public utility shall be returned to it after the filing of
4 a claim for credit, in the form of a credit memorandum in the
5 amount of the excess. However, if such deficiency or excess is
6 less than \$1, the public utility need not pay the deficiency
7 and may not claim a credit.

8 (g) Each installment or required payment of the tax imposed
9 by subsection (c) becomes delinquent at midnight of the date
10 that it is due. Failure to make a payment as required by this
11 Section shall result in the imposition of a late payment
12 penalty, an underestimation penalty, or both, as provided by
13 this subsection. The late payment penalty shall be the greater
14 of:

15 (1) \$25 for each month or portion of a month that the
16 installment or required payment is unpaid or

17 (2) an amount equal to the difference between what
18 should have been paid on the due date, based upon the most
19 recently filed estimated, annual, or amended return, and
20 what was actually paid, times 1%, for each month or portion
21 of a month that the installment or required payment goes
22 unpaid. This penalty may be assessed as soon as the
23 installment or required payment becomes delinquent.

24 The underestimation penalty shall apply to those public
25 utilities subject to paragraph (1) of subsection (d) and shall
26 be calculated after the filing of the amended return. It shall

1 be imposed if the amount actually paid on any of the dates
2 specified in subsection (f) is not equal to at least one-fourth
3 of the amount actually due for the year, and shall equal the
4 greater of:

5 (1) \$25 for each month or portion of a month that the
6 amount due is unpaid or

7 (2) an amount equal to the difference between what
8 should have been paid, based on the amended return, and
9 what was actually paid as of the date specified in
10 subsection (f), times a percentage equal to 1/12 of the sum
11 of 10% and the percentage most recently established by the
12 Commission for interest to be paid on customer deposits
13 under 83 Ill. Adm. Code 280.70(e)(1), for each month or
14 portion of a month that the amount due goes unpaid, except
15 that no underestimation penalty shall be assessed if the
16 amount actually paid on or before each of the dates
17 specified in subsection (f) was based on an estimate of
18 gross revenues at least equal to the actual gross revenues
19 for the previous year. The Commission may enforce the
20 collection of any delinquent installment or payment, or
21 portion thereof by legal action or in any other manner by
22 which the collection of debts due the State of Illinois may
23 be enforced under the laws of this State. The executive
24 director or his designee may excuse the payment of an
25 assessed penalty or a portion of an assessed penalty if he
26 determines that enforced collection of the penalty as

1 assessed would be unjust.

2 (h) All sums collected by the Commission under the
3 provisions of this Section shall be paid promptly after the
4 receipt of the same, accompanied by a detailed statement
5 thereof, into the Public Utility Fund in the State treasury.

6 (i) During the month of October of each odd-numbered year
7 the Commission shall:

8 (1) determine the amount of all moneys deposited in the
9 Public Utility Fund during the preceding fiscal biennium
10 plus the balance, if any, in that fund at the beginning of
11 that biennium;

12 (2) determine the sum total of the following items: (A)
13 all moneys expended or obligated against appropriations
14 made from the Public Utility Fund during the preceding
15 fiscal biennium, plus (B) the sum of the credit memoranda
16 then outstanding against the Public Utility Fund, if any;
17 and

18 (3) determine the amount, if any, by which the sum
19 determined as provided in item (1) exceeds the amount
20 determined as provided in item (2).

21 If the amount determined as provided in item (3) of this
22 subsection exceeds 50% of the previous fiscal year's
23 appropriation level, the Commission shall then compute the
24 proportionate amount, if any, which (x) the tax paid hereunder
25 by each utility during the preceding biennium, and (y) the
26 amount paid into the Public Utility Fund during the preceding

1 biennium by the Department of Revenue pursuant to Sections 2-9
2 and 2-11 of the Electricity Excise Tax Law, bears to the
3 difference between the amount determined as provided in item
4 (3) of this subsection (i) and 50% of the previous fiscal
5 year's appropriation level. The Commission shall cause the
6 proportionate amount determined with respect to payments made
7 under the Electricity Excise Tax Law to be transferred into the
8 General Revenue Fund in the State Treasury, and notify each
9 public utility that it may file during the 3 month period after
10 the date of notification a claim for credit for the
11 proportionate amount determined with respect to payments made
12 hereunder by the public utility. If the proportionate amount is
13 less than \$10, no notification will be sent by the Commission,
14 and no right to a claim exists as to that amount. Upon the
15 filing of a claim for credit within the period provided, the
16 Commission shall issue a credit memorandum in such amount to
17 such public utility. Any claim for credit filed after the
18 period provided for in this Section is void.

19 (j) Credit memoranda issued pursuant to subsection (f) and
20 credit memoranda issued after notification and filing pursuant
21 to subsection (i) may be applied for the 2 year period from the
22 date of issuance, against the payment of any amount due during
23 that period under the tax imposed by subsection (c), or,
24 subject to reasonable rule of the Commission including
25 requirement of notification, may be assigned to any other
26 public utility subject to regulation under this Act. Any

1 application of credit memoranda after the period provided for
2 in this Section is void.

3 (k) The chairman or executive director may make refund of
4 fees, taxes or other charges whenever he shall determine that
5 the person or public utility will not be liable for payment of
6 such fees, taxes or charges during the next 24 months and he
7 determines that the issuance of a credit memorandum would be
8 unjust.

9 (Source: P.A. 97-1150, eff. 1-25-13.)

10 (220 ILCS 5/9-221) (from Ch. 111 2/3, par. 9-221)

11 Sec. 9-221. Municipal utility taxes; recovery from
12 customers. ~~Whenever a municipality pursuant to Section 8-11-2~~
13 ~~of the Illinois Municipal Code, as heretofore and hereafter~~
14 ~~amended,~~ imposes a tax on any public utility pursuant to
15 Section 8-11-2 of the Illinois Municipal Code, such utility may
16 charge its customers, ~~other than customers who are certified~~
17 ~~business enterprises under paragraph (c) of Section 8-11-2 of~~
18 ~~the Illinois Municipal Code or are exempted from those taxes~~
19 ~~under paragraph (f) of that Section, to the extent of such~~
20 ~~exemption and during the period in which such exemption is in~~
21 ~~effect,~~ in addition to any rate authorized by this Act, an
22 additional charge equal to the sum of (1) an amount equal to
23 such municipal tax, or any part thereof (2) 3% of such tax, or
24 any part thereof, as the case may be, to cover costs of
25 accounting, and (3) an amount equal to the increase in taxes

1 and other payments to governmental bodies resulting from the
2 amount of such additional charge. Such utility shall file with
3 the Commission a true and correct copy of the municipal
4 ordinance imposing such tax; and also shall file with the
5 Commission a supplemental schedule applicable to such
6 municipality which shall specify such additional charge and
7 which shall become effective upon filing without further
8 notice. Such additional charge shall be shown separately on the
9 utility bill to each customer. The Commission shall have power
10 to investigate whether or not such supplemental schedule
11 correctly specifies such additional charge, but shall have no
12 power to suspend such supplemental schedule. If the Commission
13 finds, after a hearing, that such supplemental schedule does
14 not correctly specify such additional charge, it shall by order
15 require a refund to the appropriate customers of the excess, if
16 any, with interest, in such manner as it shall deem just and
17 reasonable, and in and by such order shall require the utility
18 to file an amended supplemental schedule corresponding to the
19 finding and order of the Commission. A public utility may not
20 impose a charge under this Section on any business enterprise
21 certified under subsection (e) or (e-5) of Section 8-11-2 of
22 the Illinois Municipal Code, or on any entity that is exempt
23 under subsection (f) of that Section, to the extent of the
24 applicable exemption and during the period in which the
25 exemption is in effect.

26 (Source: P.A. 87-895; 88-132.)

1 (220 ILCS 5/9-222) (from Ch. 111 2/3, par. 9-222)

2 Sec. 9-222. Whenever a tax is imposed upon a public utility
3 engaged in the business of distributing, supplying,
4 furnishing, or selling gas for use or consumption pursuant to
5 Section 2 of the Gas Revenue Tax Act, or whenever a tax is
6 required to be collected by a delivering supplier pursuant to
7 Section 2-7 of the Electricity Excise Tax Act, or whenever a
8 tax is imposed upon a public utility pursuant to Section 2-202
9 of this Act, such utility may charge its customers, ~~other than~~
10 ~~customers who are high impact businesses under Section 5.5 of~~
11 ~~the Illinois Enterprise Zone Act, or certified business~~
12 ~~enterprises under Section 9-222.1 of this Act, to the extent of~~
13 ~~such exemption and during the period in which such exemption is~~
14 ~~in effect,~~ in addition to any rate authorized by this Act, an
15 additional charge equal to the total amount of such taxes. The
16 exemption of this Section relating to high impact businesses
17 shall be subject to the provisions of subsections (a), (b), and
18 (b-5) of Section 5.5 of the Illinois Enterprise Zone Act. This
19 requirement shall not apply to taxes on invested capital
20 imposed pursuant to the Messages Tax Act, the Gas Revenue Tax
21 Act and the Public Utilities Revenue Act. Such utility shall
22 file with the Commission a supplemental schedule which shall
23 specify such additional charge and which shall become effective
24 upon filing without further notice. Such additional charge
25 shall be shown separately on the utility bill to each customer.

1 The Commission shall have the power to investigate whether or
2 not such supplemental schedule correctly specifies such
3 additional charge, but shall have no power to suspend such
4 supplemental schedule. If the Commission finds, after a
5 hearing, that such supplemental schedule does not correctly
6 specify such additional charge, it shall by order require a
7 refund to the appropriate customers of the excess, if any, with
8 interest, in such manner as it shall deem just and reasonable,
9 and in and by such order shall require the utility to file an
10 amended supplemental schedule corresponding to the finding and
11 order of the Commission. Except with respect to taxes imposed
12 on invested capital, such tax liabilities shall be recovered
13 from customers solely by means of the additional charges
14 authorized by this Section. A public utility may not impose a
15 charge under this Section on any customers who are high impact
16 businesses under Section 5.5 of the Illinois Enterprise Zone
17 Act, or certified business enterprises under Section 9-222.1 or
18 9-222.1B of this Act, to the extent of the applicable exemption
19 and during the period in which the exemption is in effect.

20 (Source: P.A. 91-914, eff. 7-7-00; 92-12, eff. 7-1-01.)

21 (220 ILCS 5/9-222.1B new)

22 Sec. 9-222.1B. Agricultural processing.

23 (a) All of the facilities of a qualified business
24 enterprise shall be exempt from 10% of the additional charges
25 added to the business enterprise's utility bills under Section

1 9-222 of this Act, upon approval by the Department of Commerce
2 and Economic Opportunity.

3 (b) The Department of Commerce and Economic Opportunity
4 shall determine the period during which the reduction under
5 subsection (a) is in effect, which shall not exceed 30 years.

6 (c) The Department of Commerce and Economic Opportunity
7 shall have the power to promulgate rules and regulations to
8 carry out the provisions of this Section, including, but not
9 limited to, procedures for applying for the exemption
10 authorized under this Section and rules authorizing the
11 Department of Commerce and Economic Opportunity to suspend the
12 exemption available to a qualified business enterprise should
13 the business enterprise fail to comply with the terms and
14 conditions of the certification.

15 (d) The qualified business enterprise shall certify
16 relocation of the 100 full-time equivalent jobs and creation of
17 100 full-time equivalent jobs to the Department of Commerce and
18 Economic Opportunity within 48 months after its application is
19 filed with the Department.

20 (e) As used in this Section, a "qualified business
21 enterprise" is a business enterprise that:

22 (1) is engaged in agricultural processing;

23 (2) pledges to make investments which cause the
24 creation of a minimum of 100 full-time equivalent jobs and
25 the retention of 100 full-time equivalent jobs in Illinois;

26 and

1 (3) is certified by the Department of Commerce and
2 Economic Opportunity as complying with the requirements
3 specified in items (1) and (2) of this subsection.

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