

1 AN ACT concerning taxation.

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

4 Section 5. Senate Bill 88 of the 92nd General Assembly is
5 amended, if and only if that bill becomes law, by changing
6 Sections 5-5, 5-7, and 5-10 and by adding Sections 5-42 and
7 5-52 as follows:

8 (S.B. 88, 92nd G.A., Sec. 5-5)

9 Sec. 5-5. Legislative intent.

10 (a) The General Assembly has authorized the corporate
11 authorities of any municipality to impose various fees and
12 taxes on the privilege of originating or receiving
13 telecommunications, and on retailers engaged in the business
14 of transmitting such telecommunications, all of which are
15 remitted by such retailers directly to the imposing
16 municipality. To simplify the imposition and collection of
17 municipal telecommunications taxes and to reduce complication
18 and burden, the General Assembly is repealing the municipal
19 telecommunications tax, the municipal tax on the occupation
20 or privilege of transmitting messages, and the municipal
21 infrastructure maintenance fee, and is enacting this
22 Simplified Municipal Telecommunications Tax Act which
23 provides for a single municipally imposed telecommunications
24 tax which, for municipalities with populations of less than
25 500,000, will be collected by the Illinois Department of
26 Revenue, but which, for municipalities of 500,000 or more,
27 will continue to be collected by such municipalities.

28 (b) It is the intent of the General Assembly that a
29 municipality has the authority to impose the tax authorized
30 by this Act only if the telecommunications customer is
31 located inside corporate boundaries of the municipality,

1 regardless of the customer's service address. It is further
2 the intent of the General Assembly that if a customer is
3 erroneously taxed, the municipality shall exercise its best
4 effort to promptly issue a refund for any amount improperly
5 imposed on the affected customer and remove that customer's
6 name from the municipality's tax rolls of municipal
7 residents.

8 (Source: 92SB0088 enrolled.)

9 (S.B. 88, 92nd G.A., Sec. 5-7)

10 Sec. 5-7. Definitions. For purposes of the taxes
11 authorized by this Act:

12 "Amount paid" means the amount charged to the taxpayer's
13 service address in such municipality regardless of where such
14 amount is billed or paid.

15 "Department" means the Illinois Department of Revenue.

16 "Gross charge" means the amount paid for the act or
17 privilege of originating or receiving telecommunications in
18 such municipality and for all services and equipment provided
19 in connection therewith by a retailer, valued in money
20 whether paid in money or otherwise, including cash, credits,
21 services and property of every kind or nature, and shall be
22 determined without any deduction on account of the cost of
23 such telecommunications, the cost of the materials used,
24 labor or service costs or any other expense whatsoever. In
25 case credit is extended, the amount thereof shall be included
26 only as and when paid. "Gross charges" for private line
27 service shall include charges imposed at each channel point
28 within this State, charges for the channel mileage between
29 each channel point within this State, and charges for that
30 portion of the interstate inter-office channel provided
31 within Illinois. However, "gross charge" shall not include:

32 (1) any amounts added to a purchaser's bill because
33 of a charge made pursuant to: (i) the tax imposed by this

1 Act, (ii) the tax imposed by the Telecommunications
2 Excise Tax Act, (iii) the tax imposed by Section 4251 of
3 the Internal Revenue Code, (iv) 911 surcharges, or (v)
4 charges added to customers' bills pursuant to the
5 provisions of Section 9-221 or 9-222 of the Public
6 Utilities Act, as amended, or any similar charges added
7 to customers' bills by retailers who are not subject to
8 rate regulation by the Illinois Commerce Commission for
9 the purpose of recovering any of the tax liabilities or
10 other amounts specified in those provisions of the Public
11 Utilities Act;

12 (2) charges for a sent collect telecommunication
13 received outside of such municipality;

14 (3) charges for leased time on equipment or charges
15 for the storage of data or information for subsequent
16 retrieval or the processing of data or information
17 intended to change its form or content. Such equipment
18 includes, but is not limited to, the use of calculators,
19 computers, data processing equipment, tabulating
20 equipment or accounting equipment and also includes the
21 usage of computers under a time-sharing agreement;

22 (4) charges for customer equipment, including such
23 equipment that is leased or rented by the customer from
24 any source, wherein such charges are disaggregated and
25 separately identified from other charges;

26 (5) charges to business enterprises certified as
27 exempt under Section 9-222.1 of the Public Utilities Act
28 to the extent of such exemption and during the period of
29 time specified by the Department of Commerce and
30 Community Affairs;

31 (6) charges for telecommunications and all services
32 and equipment provided in connection therewith between a
33 parent corporation and its wholly owned subsidiaries or
34 between wholly owned subsidiaries when the tax imposed

1 under this Act has already been paid to a retailer and
2 only to the extent that the charges between the parent
3 corporation and wholly owned subsidiaries or between
4 wholly owned subsidiaries represent expense allocation
5 between the corporations and not the generation of profit
6 for the corporation rendering such service;

7 (7) bad debts ("bad debt" means any portion of a
8 debt that is related to a sale at retail for which gross
9 charges are not otherwise deductible or excludable that
10 has become worthless or uncollectible, as determined
11 under applicable federal income tax standards; if the
12 portion of the debt deemed to be bad is subsequently
13 paid, the retailer shall report and pay the tax on that
14 portion during the reporting period in which the payment
15 is made);

16 (8) charges paid by inserting coins in
17 coin-operated telecommunication devices; or

18 (9) amounts paid by telecommunications retailers
19 under the Telecommunications Infrastructure Maintenance
20 Fee Act.

21 "Interstate telecommunications" means all
22 telecommunications that either originate or terminate outside
23 this State.

24 "Intrastate telecommunications" means all
25 telecommunications that originate and terminate within this
26 State.

27 "Person" means any natural individual, firm, trust,
28 estate, partnership, association, joint stock company, joint
29 venture, corporation, limited liability company, or a
30 receiver, trustee, guardian, or other representative
31 appointed by order of any court, the Federal and State
32 governments, including State universities created by statute,
33 or any city, town, county, or other political subdivision of
34 this State.

1 "Purchase at retail" means the acquisition, consumption
2 or use of telecommunications through a sale at retail.

3 "Retailer" means and includes every person engaged in the
4 business of making sales at retail as defined in this
5 Section. The Department may, in its discretion, upon
6 application, authorize the collection of the tax hereby
7 imposed by any retailer not maintaining a place of business
8 within this State, who, to the satisfaction of the
9 Department, furnishes adequate security to insure collection
10 and payment of the tax. Such retailer shall be issued,
11 without charge, a permit to collect such tax. When so
12 authorized, it shall be the duty of such retailer to collect
13 the tax upon all of the gross charges for telecommunications
14 in this State in the same manner and subject to the same
15 requirements as a retailer maintaining a place of business
16 within this State. The permit may be revoked by the
17 Department at its discretion.

18 "Retailer maintaining a place of business in this State",
19 or any like term, means and includes any retailer having or
20 maintaining within this State, directly or by a subsidiary,
21 an office, distribution facilities, transmission facilities,
22 sales office, warehouse or other place of business, or any
23 agent or other representative operating within this State
24 under the authority of the retailer or its subsidiary,
25 irrespective of whether such place of business or agent or
26 other representative is located here permanently or
27 temporarily, or whether such retailer or subsidiary is
28 licensed to do business in this State.

29 "Sale at retail" means the transmitting, supplying or
30 furnishing of telecommunications and all services and
31 equipment provided in connection therewith for a
32 consideration, to persons other than the Federal and State
33 governments, and State universities created by statute and
34 other than between a parent corporation and its wholly owned

1 subsidiaries or between wholly owned subsidiaries for their
2 use or consumption and not for resale.

3 "Service address" means the location of
4 telecommunications equipment from which telecommunications
5 services are originated or at which telecommunications
6 services are received by a taxpayer. In the event this may
7 not be a defined location, as in the case of mobile phones,
8 paging systems, and maritime systems, service address means
9 the customer's place of primary use as defined in the Mobile
10 Telecommunications Sourcing Conformity Act. For
11 air-to-ground systems and the like, "service address" shall
12 mean the location of a taxpayer's primary use of the
13 telecommunications equipment as defined by telephone number,
14 authorization code, or location in Illinois where bills are
15 sent.

16 "Taxpayer" means a person who individually or through his
17 or her agents, employees, or permittees engages in the act or
18 privilege of originating or receiving telecommunications in a
19 municipality and who incurs a tax liability as authorized by
20 this Act.

21 "Telecommunications", in addition to the meaning
22 ordinarily and popularly ascribed to it, includes, without
23 limitation, messages or information transmitted through use
24 of local, toll, and wide area telephone service, private line
25 services, channel services, telegraph services,
26 teletypewriter, computer exchange services, cellular mobile
27 telecommunications service, specialized mobile radio,
28 stationary two-way radio, paging service, or any other form
29 of mobile and portable one-way or two-way communications, or
30 any other transmission of messages or information by
31 electronic or similar means, between or among points by wire,
32 cable, fiber optics, laser, microwave, radio, satellite, or
33 similar facilities. As used in this Act, "private line"
34 means a dedicated non-traffic sensitive service for a single

1 customer, that entitles the customer to exclusive or priority
2 use of a communications channel or group of channels, from
3 one or more specified locations to one or more other
4 specified locations. The definition of "telecommunications"
5 shall not include value added services in which computer
6 processing applications are used to act on the form, content,
7 code, and protocol of the information for purposes other than
8 transmission. "Telecommunications" shall not include
9 purchases of telecommunications by a telecommunications
10 service provider for use as a component part of the service
11 provided by such provider to the ultimate retail consumer who
12 originates or terminates the taxable end-to-end
13 communications. Carrier access charges, right of access
14 charges, charges for use of inter-company facilities, and all
15 telecommunications resold in the subsequent provision of,
16 used as a component of, or integrated into, end-to-end
17 telecommunications service shall be non-taxable as sales for
18 resale. Prepaid telephone calling arrangements shall not be
19 considered "telecommunications" subject to the tax imposed
20 under this Act. For purposes of this Section, "prepaid
21 telephone calling arrangements" means that term as defined in
22 Section 2-27 of the Retailers' Occupations Tax Act.

23 "Telecommunications customer" means a person who receives
24 residential or business telecommunications service.

25 (Source: 92SB0088 enrolled.)

26 (S.B. 88, 92nd G.A., Sec. 5-10)

27 Sec. 5-10. Authority. The corporate authorities of any
28 municipality in this State may tax any and all of the
29 following acts or privileges:

30 (a) The act or privilege of originating in such
31 municipality or receiving in such municipality intrastate
32 telecommunications by a person. However, such tax is not
33 imposed on such act or privilege to the extent such act or

1 privilege may not, under the Constitution and statutes of the
2 United States, be made the subject of taxation by
3 municipalities in this State.

4 (b) The act or privilege of originating in such
5 municipality or receiving in such municipality interstate
6 telecommunications by a person. To prevent actual multi-state
7 taxation of the act or privilege that is subject to taxation
8 under this subsection, any taxpayer, upon proof that the
9 taxpayer has paid a tax in another state on such event, shall
10 be allowed a credit against any tax enacted pursuant to or
11 authorized by this Section to the extent of the amount of
12 such tax properly due and paid in such other state which was
13 not previously allowed as a credit against any other state or
14 local tax in this State. However, such tax is not imposed on
15 the act or privilege to the extent such act or privilege may
16 not, under the Constitution and statutes of the United
17 States, be made the subject of taxation by municipalities in
18 this State.

19 (c) Notwithstanding subsections (a) and (b) of this
20 Section, a municipality has the authority to impose the tax
21 authorized by this Act only if the telecommunications
22 customer is located inside corporate boundaries of the
23 municipality, regardless of the customer's service address. A
24 telecommunications customer claiming to be erroneously
25 subject to the tax imposed by this Act may seek the relief
26 provided in Section 5-52.

27 (Source: 92SB0088 enrolled.)

28 (S.B. 88, 92nd G.A., Sec. 5-42 new)

29 Sec. 5-42. Determination of local tax situs.

30 (a) A retailer of telecommunications services who is
31 obligated to collect and remit the tax imposed under this Act
32 shall be held harmless from any liability, including tax,
33 interest, and penalties, that would otherwise be due solely

1 as a result of an assignment of a service address to an
2 incorrect local taxing jurisdiction, if the retailer of
3 telecommunications services exercises due diligence in
4 applying one or more of the following methods for determining
5 the local taxing jurisdiction in which a service address is
6 located:

7 (1) Employing an electronic database provided by
8 the Department under subsection (b).

9 (2) Employing a database developed by the retailer
10 or supplied by a vendor that has been certified by the
11 Department under subsection (c).

12 (3) Employing enhanced zip codes to assign each
13 street address, address range, post office box, or post
14 office box range in the retailer's service area to a
15 specific local taxing jurisdiction.

16 (A) If an enhanced zip code overlaps
17 boundaries of municipalities or counties, or if an
18 enhanced zip code cannot be assigned to the service
19 address because the service address is in a rural
20 area or a location without postal delivery, the
21 retailer of telecommunications services or its
22 database vendor shall assign the affected service
23 addresses to one specific local taxing jurisdiction
24 within that zip code based on a reasonable
25 methodology. A methodology satisfies this
26 subdivision (a)(3)(A) if the information used to
27 assign service addresses is obtained by the retailer
28 or its database vendor from:

29 (i) a database provided by the
30 Department;

31 (ii) a database certified by the
32 Department under subsection (c);

33 (iii) responsible representatives of the
34 relevant local taxing jurisdictions; or

1 (iv) the United States Census Bureau or
2 the United States Postal Service.

3 (4) Employing a database of street addresses or
4 other assignments that does not meet the requirements of
5 subdivisions (a)(1) through (a)(3), but meets the
6 criteria set forth in subdivision (c)(1) at the time of
7 audit by the Department.

8 (b) The Department shall, subject to legislative
9 appropriation, create as soon as practical and feasible, and
10 thereafter maintain, an electronic database that gives due
11 and proper regard to any format that is approved by the
12 American National Standards Institute's Accredited Standards
13 Committee X12 and that designates for each street address,
14 address range, post office box, or post office box range in
15 the State, including any multiple postal street addresses
16 applicable to one street location, the local taxing
17 jurisdiction in which the street address, address range, post
18 office box, or post office box range is located and the
19 appropriate code for each such local taxing jurisdiction,
20 identified by one nationwide standard numeric code. The
21 nationwide standard numeric code must contain the same number
22 of numeric digits, and each digit, or combination of digits,
23 must refer to the same level of taxing jurisdiction
24 throughout the United States using a format similar to FIPS
25 55-3 or other appropriate standard approved by the Federation
26 of Tax Administrators and the Multistate Tax Commission. Each
27 address, address range, post office box, or post office box
28 range must be provided in standard postal format, including
29 the street number, street number range, street name, post
30 office box number, post office box range, and zip code. The
31 Department shall provide notice of the availability of the
32 database, and any subsequent revision thereof, by a means
33 reasonably calculated to reach interested parties.

34 (1) Each local taxing jurisdiction shall furnish to

1 the Department all information needed to create and
2 update the electronic database, including changes in
3 service addresses, annexations, incorporations,
4 reorganizations, and any other changes in jurisdictional
5 boundaries. The information furnished to the Department
6 must specify an effective date, which must be the next
7 ensuing January 1 or July 1, and the information must be
8 furnished to the Department at least 120 days prior to
9 the effective date.

10 (2) The Department shall update the electronic
11 database in accordance with the information furnished by
12 local taxing jurisdictions under subdivision (b)(1). Each
13 update must specify the effective date as the next
14 ensuing January 1 or July 1 and must be posted by the
15 Department on a website not less than 90 days before the
16 effective date. A substantially affected person may
17 provide notice to the database administrator of an
18 objection to information contained in the electronic
19 database. If an objection is supported by competent
20 evidence, the Department shall forward the evidence to
21 the affected local taxing jurisdictions and update the
22 electronic database in accordance with the determination
23 furnished by local taxing jurisdictions to the
24 Department. The Department shall also furnish the update
25 on magnetic or electronic media to any retailer of
26 telecommunications services or vendor who requests the
27 update on the media. The Department may, however, collect
28 a fee from the retailer of telecommunications services
29 that does not exceed the actual cost of furnishing the
30 update on magnetic or electronic media. Information
31 contained in the electronic database is conclusive for
32 purposes of this Section. The electronic database is not
33 an order, a rule, or a policy of general applicability.

34 (A) Each update must identify the additions,

1 deletions, and other changes to the preceding
2 version of the database. Each retailer of
3 telecommunications services shall be required to
4 collect and remit local telecommunications services
5 taxes imposed under this Act only for those service
6 addresses that are contained in the database and for
7 which all of the elements required by this
8 subsection (b) are included in the database.

9 (3) Any local taxing jurisdiction that is presented
10 with appropriate evidence that a taxpayer should not be
11 subject to the tax imposed under this Act levied by the
12 local taxing jurisdiction shall, as soon as possible,
13 correct the information furnished the Department, and
14 refund any tax collected from the taxpayer under this Act
15 pursuant to an affirmative Department determination under
16 Section 5-52 of this Act.

17 (c) For purposes of this Section, a database must be
18 certified by the Department pursuant to rules that implement
19 the following criteria and procedures:

20 (1) The database must assign street addresses,
21 address ranges, post office boxes, or post office box
22 ranges to the proper jurisdiction with an overall
23 accuracy rate of 95% at a 95% level of confidence, as
24 determined through a statistically reliable sample. The
25 accuracy must be measured based on the entire State or,
26 if the service area of the retailer does not encompass
27 the entire State, based on the retailer's entire service
28 area.

29 (2) Upon receipt of an application for
30 certification or recertification of a database, the
31 Department shall examine the application and, within 90
32 days after receipt, notify the applicant of any apparent
33 errors or omissions and request any additional
34 information determined necessary. The applicant shall

1 designate an individual responsible for providing access
2 to all records, facilities, and processes the Department
3 determines are reasonably necessary to review, inspect,
4 or test to make a determination regarding the
5 application. Access must be provided within 10 working
6 days after notification.

7 (3) The application must be in the form prescribed
8 by rule and must include the applicant's name, federal
9 employer identification number, mailing address, business
10 address, and any other information required by the
11 Department. The application may request that the
12 applicant identify the applicant's proposal for testing
13 the database.

14 (4) Each application for certification must be
15 approved or denied upon written notice within 180 days
16 after receipt of a completed application. The notice must
17 specify the grounds for denial, inform the applicant of
18 any remedy that is available, and indicate the procedure
19 that must be followed.

20 (5) Certification or recertification of a database
21 under this subsection (c) is effective from the date of
22 the Department's notice approving the application until
23 the expiration of 3 or 4 years following that date, as
24 set forth in the notice, except as provided in
25 subdivision (c)(6).

26 (6) An application for recertification of a
27 database must be received by the Department not more than
28 3 years after the date of any prior certification. The
29 application and procedures relating thereto shall be
30 governed by this subsection (c), except as otherwise
31 provided in this subdivision (c)(6). When an application
32 for recertification has been timely submitted, the
33 existing certification shall not expire but shall remain
34 effective until the application has received final action

1 by the Department, or if the application is denied, until
2 the denial is no longer subject to administrative or
3 judicial review or such later date as may be fixed by
4 order of the reviewing court.

5 (7) Notwithstanding any other law to the contrary,
6 if a retailer submits an application for certification on
7 or before the later of 6 months after the effective date
8 of this amendatory Act of the 92nd General Assembly or
9 the date which is 30 days after the date on which the
10 applicable Department rule becomes effective, and the
11 application is neither approved nor denied within the
12 time period set forth in subdivision (c)(4):

13 (A) For purposes of computing the amount of
14 the deduction to which the retailer is entitled
15 under subsection (c) of Section 5-40, the retailer
16 shall be deemed to have used a certified database
17 pursuant to subdivision (a)(2), until such time as
18 the application for certification is denied.

19 (B) If the application is approved, the
20 approval shall be deemed to have been effective on
21 the date of the application or 6 months after the
22 effective date of this amendatory Act of the 92nd
23 General Assembly, whichever is later.

24 (d) Notwithstanding any law to the contrary, a retailer
25 of telecommunications services is exercising due diligence in
26 applying one or more of the methods set forth in subsection
27 (a) if the retailer:

28 (1) expends reasonable resources to accurately and
29 reliably implement the method. However, the employment of
30 enhanced zip codes pursuant to subdivision
31 (a)(3) satisfies the requirements of this subdivision
32 (d)(1); and

33 (2) maintains adequate internal controls in
34 assigning street addresses, address ranges, post offices

1 boxes, and post office box ranges to taxing
2 jurisdictions. Internal controls are adequate if the
3 retailer of telecommunications services:

4 (A) maintains and follows procedures to obtain
5 and implement periodic and consistent updates to the
6 database at least once every 6 months; and

7 (B) corrects errors in the assignments of
8 service addresses to local taxing jurisdictions
9 within 120 days after the retailer discovers the
10 errors.

11 (e) If a retailer of telecommunications services does
12 not use one or more of the methods specified in subsection
13 (a) for determining the local taxing jurisdiction in which a
14 service address is located, the retailer of
15 telecommunications services may be held liable to the
16 Department for any tax, including interest and penalties,
17 that is due as a result of assigning the service address to
18 an incorrect local taxing jurisdiction.

19 The retailer of telecommunications services, however, is
20 not liable for any tax, interest, or penalty to the extent
21 that the amount was collected and remitted by the retailer of
22 telecommunications services with respect to a tax imposed by
23 another local taxing jurisdiction. Upon determining that an
24 amount was collected and remitted by a retailer of
25 telecommunications services with respect to a tax imposed by
26 another local taxing jurisdiction, the Department shall
27 adjust the respective amounts of the proceeds paid to each
28 such taxing jurisdiction as provided in subsection (j) of
29 Section 5-50 in the month immediately following the
30 determination.

31 (f) Pursuant to rules adopted by the Department, each
32 retailer of telecommunications services must notify the
33 Department of the methods it intends to employ for
34 determining the local taxing jurisdiction in which service

1 addresses are located.

2 Notwithstanding subsection (c) of Section 5-40, if a
3 retailer of telecommunications services employs a method of
4 assigning service addresses other than as set forth in
5 subdivision (a)(1), (a)(2), or (a)(3), the deduction allowed
6 to the retailer of telecommunications services as
7 compensation under subsection (c) of Section 5-40 shall be
8 0.5% of that portion of the tax due and accounted for and
9 remitted to the Department that is attributable to that
10 method of assigning service addresses other than as set forth
11 in subdivision (a)(1), (a)(2), or (a)(3).

12 (g) As used in this Section:

13 "Due diligence" means the care and attention that is
14 expected from, and ordinarily exercised by, a reasonable and
15 prudent person under the circumstances.

16 "Enhanced zip code" means a United States postal zip code
17 of 9 or more digits.

18 (S.B. 88, 92nd G.A., Sec. 5-52 new)

19 Sec. 5-52. Binding arbitration.

20 (a) For a municipality with a populations of less than
21 500,000, if a telecommunications customer claims, pursuant to
22 subsection (c) of Section 5-10 of this Act, to be erroneously
23 subject to the tax imposed by this Act, the
24 telecommunications customer may seek relief from the
25 Department through binding arbitration. The Department shall
26 adopt rules to establish a binding arbitration mechanism to
27 determine, based upon a preponderance of the evidence,
28 whether a telecommunications customer has been improperly
29 taxed under this Act by a municipality.

30 (1) If the Department determines that the
31 telecommunications customer has been improperly taxed by
32 the municipality, the municipality shall immediately
33 remove the telecommunications customer from its official

1 tax rolls and immediately refund the improperly taxed
2 amount to the telecommunications customer. The Department
3 shall pay the refund out of the total amount of moneys to
4 be paid to the municipality from the Municipal
5 Telecommunications Fund under subsection (i) of Section
6 5-50 of this Act.

7 (2) If the Department has previously determined
8 that a telecommunications customer is not subject to the
9 tax authorized by this Act and the municipality continues
10 to impose the tax on that telecommunications customer,
11 the Department shall award the telecommunications
12 customer 3 times the amount of the improperly imposed
13 tax. The Department shall pay the telecommunications
14 customer that amount from the total amount of moneys to
15 be paid to the municipality pursuant to subsection (i) of
16 Section 5-50 of this Act. If the Department fails to
17 promptly pay the refund to the telecommunications
18 customer within 30 days after the Department's
19 determination, the telecommunications customer may file a
20 writ of mandamus in the circuit court of his or her
21 county of residence. If the telecommunications customer
22 prevails in circuit court, then the telecommunications
23 customer is entitled to attorney's fees, costs, and 4
24 times the amount improperly taxed.

25 (3) If the Department determines that the
26 complaining telecommunications customer has been properly
27 taxed by the municipality, the telecommunications
28 customer may, at his or her own expense, directly appeal
29 the Department's finding to the circuit court of his or
30 her county or residence for review.

31 (b) For a municipality with a population of more than
32 500,000, if a telecommunications customer claims, pursuant to
33 subsection (c) of Section 5-10 of this Act, to be erroneously
34 subject to the tax imposed by this Act, the

1 telecommunications customer may seek relief from the
2 Department through binding arbitration. The Department shall
3 use the same rules and procedures it has adopted pursuant to
4 subsection (a) of this Section in administering binding
5 arbitration under this subsection (b).

6 (1) If the Department determines that the
7 telecommunications customer has been improperly taxed by
8 the municipality, the municipality shall immediately
9 remove the telecommunications customer from its official
10 tax rolls and immediately refund the improperly taxed
11 amount to the telecommunications customer. The
12 municipality shall pay the refund from the total amount
13 of moneys the municipality receives pursuant to
14 subsection (b) of Section 5-40 of this Act.

15 (2) If the Department has previously determined
16 that a telecommunications customer is not subject to the
17 tax authorized by this Act and the municipality continues
18 to impose the tax on that telecommunications customer,
19 the Department shall award the telecommunications
20 customer 3 times the amount of the improperly imposed
21 tax. The municipality shall refund that amount from the
22 total amount of moneys the municipality receives pursuant
23 to subsection (b) of Section 5-40 of this Act. If the
24 municipality fails to promptly pay the refund to the
25 telecommunications customer within 30 days after the
26 Department's determination, the telecommunications
27 customer may file a writ of mandamus in the circuit court
28 of his or her county of residence. If the
29 telecommunications customer prevails in circuit court,
30 then the telecommunications customer is entitled to
31 attorney's fees, costs, and 4 times the amount improperly
32 taxed.

33 (3) If the Department determines that the
34 complaining telecommunications customer has been properly

1 taxed by the municipality, the telecommunications
2 customer may, at his or her own expense, directly appeal
3 the Department's finding to the circuit court of his or
4 her county of residence for review.

5 Section 99. Effective date. This Act takes effect on July
6 1, 2002.