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LRB102 15982 HLH 38916 a

1 AMENDMENT TO SENATE BILL 1794

2 AMENDMENT NO. _____. Amend Senate Bill 1794 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Local Government Taxpayers' Bill of Rights
5 Act is amended by changing Section 30 as follows:

6 (50 ILCS 45/30)

7 Sec. 30. Statute of limitations. Units of local government
8 have an obligation to review tax returns in a timely manner and
9 issue any determination of tax due as promptly as possible so
10 that taxpayers may make timely corrections of future returns
11 and minimize any interest charges applied to tax
12 underpayments. Each unit of local government must provide
13 appropriate statutes of limitation for the determination and
14 assessment of taxes covered by this Act, provided, however,
15 that a statute of limitations may not exceed the following:

16 (1) No notice of determination of tax due or

1 assessment may be issued more than 5 4 years after the end
2 of the calendar year for which the return for the period
3 was filed or the end of the calendar year in which the
4 return for the period was due, whichever occurs later. An
5 audit or review that is timely performed under Section 35
6 of this Act or Section 8-11-2.5 of the Illinois Municipal
7 Code shall toll the applicable 5-year period for a period
8 of not more than 1 year.

9 (2) If any tax return was not filed or if during any
10 4-year period for which a notice of tax determination or
11 assessment may be issued by the unit of local government
12 the tax paid or remitted was less than 75% of the tax due
13 for that period, the statute of limitations shall be no
14 more than 6 years after the end of the calendar year in
15 which the return for the period was due or the end of the
16 calendar year in which the return for the period was
17 filed, whichever occurs later. In the event that a unit of
18 local government fails to provide a statute of
19 limitations, the maximum statutory period provided in this
20 Section applies.

21 (3) The changes to this Section made by this amendatory
22 Act of the 102nd General Assembly do not revive any
23 determination and assessment of tax due where the statute of
24 limitations has expired as of the effective date of this
25 amendatory Act of the 102nd General Assembly, but the changes
26 do extend the statute of limitations for the determination and

1 assessment of taxes where the statute of limitation has not
2 expired as of the effective date of this amendatory Act of the
3 102nd General Assembly.

4 This Section does not place any limitation on a unit of
5 local government if a fraudulent tax return is filed.

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

7 Section 10. The Illinois Municipal Code is amended by
8 changing Section 8-11-2.5 as follows:

9 (65 ILCS 5/8-11-2.5)

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

12 (a) If a municipality has imposed a tax under Section
13 8-11-2, then the municipality, which may act through its
14 designated auditor or agent, may conduct an audit of tax
15 receipts collected from the public utility that is subject to
16 the tax or that collects the tax from purchasers on behalf of
17 the municipality to determine whether the amount of tax that
18 was paid by the public utility was accurate.

19 (b) Not more than once every 2 years, a municipality that
20 has imposed a tax under Section 8-11-2 of this Act may, subject
21 to the limitations and protections stated in ~~Section 16-122 of~~
22 ~~the Public Utilities Act and in~~ the Local Government
23 Taxpayers' Bill of Rights Act, make a written request via
24 e-mail to an e-mail address provided by the utility for any

1 information from a utility in the format maintained by the
2 public utility in the ordinary course of its business that the
3 municipality reasonably requires in order to perform an audit
4 under subsection (a). The information that may be requested by
5 the municipality includes, without limitation:

6 (1) in an electronic format used by the public utility
7 in the ordinary course of its business, the
8 premises-specific and other information ~~database~~ used by
9 the public utility to determine the amount of tax due to
10 the municipality, for a time period that includes the year
11 in which the request is made and not more than 6 years
12 immediately preceding that year, as appropriate for the
13 period being audited, and which shall include for each
14 customer premises in the municipality: (i) the premises
15 address and zip code; (ii) the classification of the
16 premises as designated by the public utility, such as
17 residential, commercial, or industrial; (iii) monthly
18 usage information sufficient to calculate taxes due, in
19 therms, kilowatts, minutes, or other such other unit of
20 measurement used to calculate the taxes; (iv) the taxes
21 actually assessed, collected, and remitted to the
22 municipality; (v) the first date of service for the
23 premises, if that date occurred within the period being
24 audited; and (vi) any tax exemption claimed for the
25 premises and any additional information that supports a
26 specific tax exemption, if the municipality requests that

1 information, including the customer name and other
2 relevant data; however, a public utility that is an
3 electric utility may not provide other customer-specific
4 information to the municipality; provided, however, that,
5 if the municipality has requested customer specific
6 billing, usage, and load shape data from a public utility
7 that is an electric utility and has not provided the
8 electric utility with the verifiable authorization
9 required by Section 16-122 of the Public Utilities Act,
10 then the electric utility shall remove from the database
11 all customer-specific billing, usage, and load shape data
12 before providing it to the municipality; and

13 (2) the premises address for customer accounts that
14 the public utility's records indicate are: (i) in a
15 bordering municipality, township, or unincorporated area
16 (other than the City of Chicago), provided that the
17 municipality provides the public utility a list of such
18 bordering jurisdictions; or (ii) in any zip code with
19 boundaries that include or are adjacent to the requesting
20 municipality provided that the municipality provides the
21 public utility a list of those zip codes; this item (ii)
22 applies to requests made on or after September 1, 2022. If
23 any such customer is determined by the municipality and
24 the utility to be located within the requesting
25 municipality, then the public utility shall provide the
26 additional information provided in paragraph (1) of this

1 ~~subsection (b). in a format used by the public utility in~~
2 ~~the ordinary course of its business, summary data, as~~
3 ~~needed by the municipality, to determine the unit~~
4 ~~consumption of utility services by providing the gross~~
5 ~~therms, kilowatts, minutes, or other units of measurement~~
6 ~~being taxed within the municipal jurisdiction and the~~
7 ~~gross revenues collected and the associated taxes~~
8 ~~assessed.~~

9 Following the municipality's receipt of the information
10 provided by the public utility pursuant to paragraphs (1) or
11 (2) of this subsection (b), if a question or issue arises that
12 can only be addressed by accessing customer-specific or
13 additional information not described in this Section, then the
14 utility shall attempt to resolve the question or issue without
15 disclosing any customer-specific information. If this process
16 does not resolve the question or issue, then either the
17 municipality or public utility can further pursue the matter
18 before the Department of Revenue, which has the discretion to
19 receive or share customer-specific information with the
20 municipality as appropriate subject to confidentiality
21 restrictions.

22 (c) Each public utility must provide the information
23 requested under subsection (b) within 45 days after the date
24 of the request.÷

25 ~~(1) 60 days after the date of the request if the~~
26 ~~population of the requesting municipality is 500,000 or~~

1 ~~less, or~~

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

4 The time in which a public utility must provide the
5 information requested under subsection (b) may be extended by
6 an agreement between the municipality and the public utility.
7 ~~If a public utility receives, during a single month,~~
8 ~~information requests from more than 2 municipalities, or the~~
9 ~~aggregate population of the requesting municipalities is~~
10 ~~100,000 customers or more, the public utility is entitled to~~
11 ~~an additional 30 days to respond to those requests.~~

12 (d) If an audit by the municipality or its agents finds an
13 error by the public utility in the amount of taxes paid by the
14 public utility, then the municipality must notify the public
15 utility of the error. Any such notice must be issued pursuant
16 to Section 30 of the Local Government Taxpayers' Bill of
17 Rights Act or a lesser period of time from the date the tax was
18 due that may be specified in the municipal ordinance imposing
19 the tax. Upon such a notice, any audit shall be conducted
20 pursuant to Section 35 of the Local Government Taxpayers' Bill
21 of Rights Act subject to the timelines set forth in this
22 subsection (d). The public utility must submit a written
23 response within 60 days after the date the notice was
24 postmarked stating that it has corrected the error or stating
25 the reason that the error is inapplicable or inaccurate. The
26 municipality then has 60 days after the receipt of the public

1 utility's response to review and contest the conclusion of the
2 public utility. If the parties are unable to agree on the
3 disposition of the audit findings within 120 days after the
4 notification of the error to the public utility, then either
5 party may submit the matter for appeal as outlined in Section
6 40 of the Local Government Taxpayers' Bill of Rights Act. If
7 the appeals process does not produce a satisfactory result,
8 then either party may pursue the alleged error in a court of
9 competent jurisdiction.

10 (e) The public utility shall be liable to the municipality
11 for unpaid taxes, including taxes that the public utility
12 failed to properly bill to the customer subject to subsection
13 paragraph (2) of subsection (e-10) of this Section. This
14 subsection (e) does not limit a utility's right to an
15 offsetting credit it would otherwise be entitled to, including
16 that authorized by subsection (c) of Section 8-11-2 of the
17 Code. To the extent that a public utility's errors in past tax
18 collections and payments relate to premises located in an area
19 of the municipality that was annexed on or after the effective
20 date of this amendatory Act of the 102nd General Assembly,
21 however, the public utility shall only be liable for such
22 errors beginning 60 days after the date that the municipality
23 provided the public utility notice of the annexation, provided
24 that the public utility provides municipalities with an email
25 address to send annexation notices. A copy of the annexation
26 ordinance and the map filed with the County Clerk sent to the

1 email address provided by the public utility shall be deemed
2 sufficient notice, but other forms of notice may also be
3 sufficient ~~No public utility is liable for any error in past~~
4 ~~collections and payments that was unknown by it prior to the~~
5 ~~audit process unless (i) the error was due to negligence by the~~
6 ~~public utility in the collection or processing of required~~
7 ~~data and (ii) the municipality had not failed to respond in~~
8 ~~writing on an accurate and timely basis to any written request~~
9 ~~of the public utility to review and correct information used~~
10 ~~by the public utility to collect the municipality's tax if a~~
11 ~~diligent review of such information by the municipality~~
12 ~~reasonably could have been expected to discover such error.~~
13 ~~If, however, an error in past collections or payments resulted~~
14 ~~in a customer, who should not have owed a tax to any~~
15 ~~municipality, having paid a tax to a municipality, then the~~
16 ~~customer may, to the extent allowed by Section 9-252 of the~~
17 ~~Public Utilities Act, recover the tax from the public utility,~~
18 ~~and any amount so paid by the public utility may be deducted by~~
19 ~~that public utility from any taxes then or thereafter owed by~~
20 ~~the public utility to that municipality.~~

21 (e-5) Upon mutual agreement, a utility and municipality
22 may use a web portal in lieu of email to receive notice of
23 annexations and boundary changes. After December 31, 2025 for
24 a gas public utility that serves more than 2,000,000 customers
25 in Illinois and after December 31, 2022 for all other public
26 utilities that serve more than 1,000,000 retail customers in

1 Illinois, the public utilities shall provide a secure web
2 portal for municipalities to use, and, thereafter, the web
3 portals shall be used by all municipalities to notify the
4 public utilities of annexations. The web portal must provide
5 the municipality with an electronic record of all
6 communications and attached documents that the municipality
7 has submitted through the portal.

8 (e-10) (1) No later than August 1, 2023, the Department of
9 Revenue shall develop and publish a written process to be used
10 by each public utility and each municipality that imposes a
11 tax under Section 8-11-2 of the Code, which may act through its
12 designated auditor or agent, under which:

13 (A) by December 31, 2024, and on a regular
14 schedule thereafter to occur approximately every 5
15 years, each public utility shall work collaboratively
16 with each municipality to develop and file with the
17 Department of Revenue, a master list of all premises
18 addresses in the municipality (including premises
19 addresses with inactive accounts) that are subject to
20 such tax and all accounts in the municipality that are
21 exempt from such tax, provided that the final date for
22 the first master list shall be extended, at the
23 utility's request, to no later than December 31, 2026;

24 (B) information is provided to the municipality to
25 facilitate development of the master list including
26 information described in paragraph (1) of subsection

1 (b) of this Section regarding all accounts (including
2 premises addresses with inactive accounts) that the
3 public utility's records show are in the municipality
4 and the premises addresses in (i) any bordering
5 municipality, (ii) any bordering township, or (iii)
6 any zip code that is in any part in the municipality or
7 that borders the municipality;

8 (C) any dispute between the public utility and the
9 municipality related to the master list will be
10 resolved;

11 (D) on a semi-annual basis following the
12 development of the master list, each public utility
13 shall provide to each municipality certain information
14 that the municipality can use to nominate changes to
15 the master list, including, but not limited to: (i) a
16 list of any tax-related changes, such as the addition
17 or removal of an exemption, or to the taxing
18 jurisdiction, to any account on the master list; and
19 (ii) new premises addresses within the municipality,
20 any bordering municipality, in any bordering township,
21 or in any zip code that is in any part in the
22 municipality or that borders the municipality;

23 (E) accounts nominated by the municipality to be
24 added or deleted from the master list may be submitted
25 to the public utility and related disputes will be
26 resolved;

1 (F) changes may be made to the master list; and

2 (G) the utility may file a master list based
3 solely on its records if the municipality fails to
4 participate and such a municipality may request to
5 restart the process prior to the end of the five-year
6 cycle.

7 (2) No public utility is liable for any error in tax
8 collections or payments due more than 60 days after the
9 date that the first master list for the relevant
10 municipality is filed with the Department of Revenue
11 unless such error in tax collection or payment:

12 (A) was related to a premises address on the
13 master list at the time of the error;

14 (B) was related to an area of the municipality
15 annexed on or after the effective date of this
16 amendatory Act of the 102nd General Assembly, notice
17 of which was properly provided to the public utility
18 pursuant to the procedures set forth in subsection
19 (e); or

20 (C) resulted from the public utility's failure to
21 comply with the process established in this subsection
22 (e-10).

23 (3) If the public utility uses a portal as set forth in
24 subsection (e-5), all lists, changes affecting tax
25 collection and remission, proposed corrections, and
26 reports shall be provided through such portal.

1 (e-15) If a customer paid a tax to a municipality that the
2 customer did not owe or was in excess of the tax the customer
3 owed, then the customer may, to the extent allowed by Section
4 9-252 of the Public Utilities Act, recover the tax or over
5 payment from the public utility, and any amount so paid by the
6 public utility may be deducted by that public utility from any
7 taxes then or thereafter owed by the public utility to that
8 municipality.

9 (e-20) (1) The Department of Revenue shall have the
10 authority to resolve a claim by a municipality that a public
11 utility materially failed to comply with the requirements of
12 subsections (b) or (c) of this Section or the process
13 developed under subsection (e-10) of this Section. If the
14 Department of Revenue finds, after notice and hearing, that a
15 public utility (i) caused a material delay in providing
16 information properly requested under such subsections or (ii)
17 omitted a material portion of information properly requested,
18 then the Department shall assess a penalty on the utility of up
19 to \$50,000 per audit, or up to \$10,000 per audit for a utility
20 that served less than 100,000 retail customers on the date of
21 the audit notice, or, if the claim relates to subsection
22 (e-10), up to \$50,000 per 5-year master list cycle or up to
23 \$10,000 per cycle for a utility that served less than 100,000
24 retail customers on the date such master list was filed with
25 the Department, which penalty shall be paid by the public
26 utility to the Department of Revenue for deposit into the

1 Supplemental Low-Income Energy Assistance Fund.
2 Notwithstanding anything to the contrary, a penalty assessed
3 pursuant to this subsection shall be the exclusive remedy for
4 the conduct that is the subject of the claim. A penalty
5 assessed under this subsection shall bar and prohibit pursuit
6 of any other penalty, fine, or recovery related to the conduct
7 for which the penalty was assessed.

8 (2) No penalty shall be assessed by the Department
9 pursuant to this subsection if the Department finds that a
10 delay or omission was immaterial or de minimis.

11 (3) Any penalties or fines paid by a public utility
12 pursuant to this subsection shall not be recoverable through
13 the utility's rates.

14 (4) If a municipality and public utility have a
15 disagreement regarding the scope or conduct of an audit
16 undertaken pursuant to this Section, they shall work together
17 in good faith to attempt to resolve the dispute. If, after a
18 period of no less than 14 days, the municipality and public
19 utility are not able to reach an agreement regarding the
20 dispute, either entity, or both entities jointly, may submit a
21 request to the Illinois Department of Revenue seeking
22 resolution of the dispute, and the Department shall have the
23 authority to resolve the issue, and shall resolve such dispute
24 within 60 days. Each such request must include a statement
25 showing that consultation and reasonable attempts to resolve
26 the dispute have failed.

1 The time period established pursuant to this Section for
2 complying with requests for information under this Section
3 shall be suspended during the dispute resolution processes set
4 forth in this paragraph (4) of subsection (e-20), but only for
5 the issue or issues that are the subject of the dispute.
6 Information requests that are undisputed shall continue to be
7 subject to the time periods for compliance set forth in this
8 Section.

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

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

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

22 (i) The changes to subsection (e) and paragraph (2) of
23 subsection (e-10) of this Section made by this amendatory Act
24 of the 102nd General Assembly apply to taxes due on or after
25 August 1, 2022. The remaining changes to this Section made by
26 this amendatory Act of the 102nd General Assembly apply on or

1 after the effective date of this amendatory Act of the 102nd
2 General Assembly.

3 (j) As used in this Section:

4 "Customer-specific information" means the name, phone
5 number, email address, and banking information of a customer.

6 "Customer-specific information" includes the load-shape data
7 associated with a customer account. "Customer-specific
8 information" does not include the tax-exempt status of the
9 premises and the name of tax exempt customers.

10 "Premises-specific information" means any information,
11 including billing and usage data, associated with a premises
12 address that is not customer-specific information.

13 "Premises address" includes the jurisdiction to which the
14 address is currently coded by the public utility for municipal
15 tax purposes.

16 (Source: P.A. 96-1422, eff. 8-3-10.)

17 Section 15. The Public Utilities Act is amended by
18 changing Section 16-122 as follows:

19 (220 ILCS 5/16-122)

20 Sec. 16-122. Customer information.

21 (a) Upon the request of a retail customer, or a person who
22 presents verifiable authorization and is acting as the
23 customer's agent, and payment of a reasonable fee, electric
24 utilities shall provide to the customer or its authorized

1 agent the customer's billing and usage data.

2 (b) Upon request from any alternative retail electric
3 supplier and payment of a reasonable fee, an electric utility
4 serving retail customers in its service area shall make
5 available generic information concerning the usage, load shape
6 curve or other general characteristics of customers by rate
7 classification. Provided however, no customer specific
8 billing, usage or load shape data shall be provided under this
9 subsection unless authorization to provide such information is
10 provided by the customer pursuant to subsection (a) of this
11 Section.

12 (c) Upon request from a unit of local government and
13 payment of a reasonable fee, an electric utility shall make
14 available information concerning the usage, load shape curves,
15 and other characteristics of customers by customer
16 classification and location within the boundaries of the unit
17 of local government, however, no customer specific billing,
18 usage, or load shape data shall be provided under this
19 subsection unless authorization to provide that information is
20 provided by the customer. This subsection (c) does not
21 prohibit an electric utility from providing a unit of local
22 government or its designated auditor the materials delineated
23 in Section 8-11-2.5 of the Illinois Municipal Code for the
24 purposes of an audit under that Section.

25 (d) All such customer information shall be made available
26 in a timely fashion in an electronic format, if available.

1 (Source: P.A. 92-585, eff. 6-26-02.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law."