



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3974

Introduced 1/21/2022, by Sen. Laura M. Murphy

SYNOPSIS AS INTRODUCED:

50 ILCS 45/30
65 ILCS 5/8-11-2.5
220 ILCS 5/9-224.1 new
220 ILCS 5/16-122

Amends the Local Government Taxpayers' Bill of Rights Act. Provides that the statute of limitations set by a unit of local government for the determination and assessment of taxes covered by the Act may not exceed 7 years (currently, 4 years) after the end of the calendar year for which the return for the period was filed or the end of the calendar year in which the return for the period was due, whichever occurs later. Makes conforming changes concerning the tolling of this 7-year period. Amends the Illinois Municipal Code. In a Section concerning municipal audits of public utilities, provides that municipalities may request information from public utilities no more than annually (currently, no more than once every 2 years). Provides that customer specific billing, usage, or load shape data may be provided to a unit of local government if the unit of local government is requesting the information for the purposes of an audit under specified provisions of the Illinois Municipal Code. Provides that, if the public utility fails to respond in a timely manner to the request for information with complete information, the public utility shall be liable to the municipality for a penalty of \$1,000 for each day it fails to produce the requested information. Provides that, if a public utility is liable for any error in past tax payments in excess of \$5,000 that were unknown prior to an audit from the municipality, then the public utility shall reimburse the municipality for the cost of the audit. Amends the Public Utilities Act. Provides that the Illinois Commerce Commission shall not consider: (i) any court costs, attorney's fees, or other fees incurred under certain provisions of the Illinois Municipal Code; or (ii) any penalties or interest imposed by a municipality under certain provisions of the Illinois Municipal Code to be expenses for the purpose of determining any rate or charge. Makes other changes.

LRB102 24041 HLH 33259 b

1 AN ACT concerning local government.

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

4 Section 5. The 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) For utility taxes, no ~~no~~ notice of determination
17 of tax due or assessment may be issued more than 7 ~~4~~ years
18 after the end of the calendar year for which the return for
19 the period was filed or the end of the calendar year in
20 which the return for the period was due, whichever occurs
21 later. An audit or review that is timely performed under
22 Section 35 of this Act or Section 8-11-2.5 of the Illinois
23 Municipal Code shall toll this 7-year period.

1 (1.5) Except for utility taxes under paragraph (1), no
2 notice of determination of tax due or assessment may be
3 issued more than 4 years after the end of the calendar year
4 for which the return for the period was filed or the end of
5 the calendar year in which the return for the period was
6 due, whichever occurs later.

7 (2) Except for utility taxes under paragraph (1), if
8 ~~If~~ any tax return was not filed or if during any 4-year
9 period for which a notice of tax determination or
10 assessment may be issued by the unit of local government
11 the tax paid or remitted was less than 75% of the tax due
12 for that period, the statute of limitations shall be no
13 more than 6 years after the end of the calendar year in
14 which the return for the period was due or the end of the
15 calendar year in which the return for the period was
16 filed, whichever occurs later. In the event that a unit of
17 local government fails to provide a statute of
18 limitations, the maximum statutory period provided in this
19 Section applies.

20 (3) The changes to this Section made by this
21 amendatory Act of the 102nd General Assembly do not revive
22 any determination and assessment of tax due where the
23 statute of limitations has expired, but do extend the
24 current statute of limitations for the determination and
25 assessment of taxes that have not yet expired.

26 This Section does not place any limitation on a unit of

1 local government if a fraudulent tax return is filed.

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

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

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

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

8 (a) If a municipality has imposed a tax under Section
9 8-11-2, then the municipality may conduct an audit of tax
10 receipts collected from the public utility that is subject to
11 the tax or that collects the tax from purchasers on behalf of
12 the municipality to determine whether the amount of tax that
13 was paid by the public utility was accurate.

14 (b) Not more than once annually ~~every 2 years~~, a
15 municipality that has imposed a tax under this Act may,
16 subject to the limitations and protections stated in ~~Section~~
17 ~~16-122 of the Public Utilities Act and in~~ the Local Government
18 Taxpayers' Bill of Rights Act, make a written request via
19 e-mail to an e-mail address provided by the utility for any
20 information from a utility in the format maintained by the
21 public utility in the ordinary course of its business that the
22 municipality reasonably requires in order to perform an audit
23 under subsection (a). The information that may be requested by
24 the municipality includes, without limitation:

1 (1) in an electronic format used by the public utility
2 in the ordinary course of its business, the
3 premises-specific and other information database used by
4 the public utility to determine the amount of tax due to
5 the municipality; provided, however, that a public utility
6 that is an electric utility may not provide
7 customer-specific information ~~, if the municipality has~~
8 ~~requested customer specific billing, usage, and load shape~~
9 ~~data from a public utility that is an electric utility and~~
10 ~~has not provided the electric utility with the verifiable~~
11 ~~authorization required by Section 16-122 of the Public~~
12 ~~Utilities Act, then the electric utility shall remove from~~
13 ~~the database all customer specific billing, usage, and~~
14 ~~load shape data before providing it to the municipality;~~
15 ~~and~~

16 (2) information related to each premises address that
17 the public utility's records indicate:

18 (A) is located in the municipality;

19 (B) is located in an adjacent unincorporated
20 municipality identified by the requesting
21 municipality; or

22 (C) is located in one of a list of zip codes
23 provided by the requesting municipality that include
24 areas within the requesting municipality's boundaries;
25 and

26 (3) for each address identified in paragraph (2):

- 1 (A) the premises address and zip code;
- 2 (B) classification of the premises as designated
3 by the public utility (e.g., residential, commercial,
4 industrial);
- 5 (C) first date of service; and
- 6 (D) for each month of service in the current year
7 (up to one month prior to the date of the request by
8 the municipality) and for the previous 10 calendar
9 years:
- 10 (i) the amount of the utility service used,
11 measured in gross therms, kilowatts, minutes, or
12 other units of measurement;
- 13 (ii) total taxable charges;
- 14 (iii) the total tax collected and remitted;
- 15 (iv) the municipal jurisdiction for tax
16 collection and remittance; and
- 17 (v) whether the customer is exempt from
18 municipal tax. ~~in a format used by the public~~
19 utility in the ordinary course of its business,
20 summary data, as needed by the municipality, to
21 determine the unit consumption of utility services
22 by providing the gross therms, kilowatts, minutes,
23 or other units of measurement being taxed within
24 the municipal jurisdiction and the gross revenues
25 collected and the associated taxes assessed.
- 26 (c) Each public utility must provide the information

1 requested under subsection (b) within 90 days after the date
2 of the request.÷

3 ~~(1) 60 days after the date of the request if the~~
4 ~~population of the requesting municipality is 500,000 or~~
5 ~~less; or~~

6 ~~(2) 90 days after the date of the request if the~~
7 ~~population of the requesting municipality exceeds 500,000.~~

8 The time in which a public utility must provide the
9 information requested under subsection (b) may be extended by
10 an agreement between the municipality and the public utility.
11 If the public utility fails to respond to the request for
12 information with complete information within the timeline
13 established by this Section, the public utility shall be
14 liable to the municipality for a penalty of \$1,000 for each day
15 it fails to produce the requested information. Those penalties
16 shall be assessed by the municipality, but may be reduced or
17 vacated by the municipality or a court of competent
18 jurisdiction upon demonstration by the public utility, by
19 clear and convincing evidence, that the public utility's
20 failure to provide the requested information within the
21 timeline established by this Section resulted from excusable
22 neglect. If a public utility receives, during a single month,
23 information requests from more than 2 municipalities, or the
24 aggregate population of the requesting municipalities is
25 100,000 customers or more, the public utility is entitled to
26 an additional 30 days to respond to those requests.

1 (d) If an audit by the municipality or its agents finds an
2 error by the public utility in the amount of taxes paid by the
3 public utility, then the municipality must notify the public
4 utility of the error. Any such notice must be issued pursuant
5 to Section 30 of the Local Government Taxpayers' Bill of
6 Rights Act or a lesser period of time from the date the tax was
7 due that may be specified in the municipal ordinance imposing
8 the tax. Upon such a notice, any audit shall be conducted
9 pursuant to Section 35 of the Local Government Taxpayers' Bill
10 of Rights Act subject to the timelines set forth in this
11 subsection (d). The public utility must submit a written
12 response within 60 days after the date the notice was
13 postmarked stating that it has corrected the error or stating
14 the reason that the error is inapplicable or inaccurate. The
15 municipality then has 60 days after the receipt of the public
16 utility's response to review and contest the conclusion of the
17 public utility. If the parties are unable to agree on the
18 disposition of the audit findings within 120 days after the
19 notification of the error to the public utility, then either
20 party may submit the matter for appeal as outlined in Section
21 40 of the Local Government Taxpayers' Bill of Rights Act. If
22 the appeals process does not produce a satisfactory result,
23 then either party may pursue the alleged error in a court of
24 competent jurisdiction. If the municipality prevails and
25 receives at least 50% of the relief requested in court, the
26 public utility is liable for the attorney's fees and costs of

1 the municipality.

2 (d-5) If a public utility is liable for any error or errors
3 in past tax payments cumulatively in excess of \$5,000 that
4 were unknown prior to an audit from the municipality, the
5 public utility shall reimburse the municipality for the cost
6 of the audit in addition to any interest and penalties
7 imposed.

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

26 (e-5) The public utility shall be liable to the

1 municipality for all unpaid taxes due during the statutory
2 period set forth in Section 30 of the Local Government
3 Taxpayers' Bill of Rights Act, including taxes that the public
4 utility failed to properly bill to the customer. To the extent
5 that a public utility's errors in past tax collections and
6 payments relate to premises located in an area of the
7 municipality that was annexed on or after the effective date
8 of this amendatory Act of the 102nd General Assembly, however,
9 the public utility shall only be liable for such errors
10 beginning 60 days after the date that the municipality
11 provided the public utility notice of the annexation, provided
12 that the public utility provides municipalities with an e-mail
13 address to send annexation notices and the municipality
14 notified the utility within 60 days after the annexation. A
15 copy of the annexation ordinance and the map provided to the
16 recorder of the county under this Act sent to the e-mail
17 address provided by the public utility shall be deemed
18 sufficient notice, but other forms of notice may also be
19 sufficient.

20 (f) All premises-specific ~~account-specific~~ information
21 provided by a public utility under this Section may be used
22 only for the purpose of an audit of taxes conducted under this
23 Section and the enforcement of any related tax claim. All such
24 information must be held in strict confidence by the
25 municipality and its agents and may not be disclosed to the
26 public under the Freedom of Information Act or under any other

1 similar statutes allowing for or requiring public disclosure.

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

5 (g-5) As used in this Section:

6 "Customer-specific information" means the name, phone
7 number, e-mail address, and banking information of a customer,
8 but specifically excludes the customer's tax exempt status.

9 "Premises-specific information" means any information,
10 including billing, usage, and load shape data, associated with
11 a premises address but not with customer-specific information.

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

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

15 Section 15. The Public Utilities Act is amended by
16 changing Section 16-122 and by adding Section 9-224.1 as
17 follows:

18 (220 ILCS 5/9-224.1 new)

19 Sec. 9-224.1. Audit compliance; municipal fines. For the
20 purpose of determining any rate or charge, the Commission
21 shall not consider the following costs as an expense of any
22 public utility company, including any allocation of those
23 costs to the public utility from an affiliate or corporate
24 parent: (i) any court costs, attorney's fees, or other fees

1 incurred under subsection (d) of Section 8-11-2.5 of the
2 Illinois Municipal Code; or (ii) any penalties or interest
3 imposed by a municipality under Section 8-11-2.5 of the
4 Illinois Municipal Code.

5 (220 ILCS 5/16-122)

6 Sec. 16-122. Customer information.

7 (a) Upon the request of a retail customer, or a person who
8 presents verifiable authorization and is acting as the
9 customer's agent, and payment of a reasonable fee, electric
10 utilities shall provide to the customer or its authorized
11 agent the customer's billing and usage data.

12 (b) Upon request from any alternative retail electric
13 supplier and payment of a reasonable fee, an electric utility
14 serving retail customers in its service area shall make
15 available generic information concerning the usage, load shape
16 curve or other general characteristics of customers by rate
17 classification. Provided however, no customer specific
18 billing, usage or load shape data shall be provided under this
19 subsection unless authorization to provide such information is
20 provided by the customer pursuant to subsection (a) of this
21 Section.

22 (c) Upon request from a unit of local government and
23 payment of a reasonable fee, an electric utility shall make
24 available information concerning the usage, load shape curves,
25 and other characteristics of customers by customer

1 classification and location within the boundaries of the unit
2 of local government, however, no customer specific billing,
3 usage, or load shape data shall be provided under this
4 subsection unless authorization to provide that information is
5 provided by the customer or the unit of local government is
6 requesting the information for the purposes of an audit under
7 Section 8-11-2.5 of the Illinois Municipal Code.

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

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