



Sen. Debbie DeFrancesco Halvorson

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LRB095 18683 RCE 46870 a

1 AMENDMENT TO SENATE BILL 2016

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2016 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by adding  
5 Sections 5.708 and 5.709 as follows:

6 (30 ILCS 105/5.708 new)

7 Sec. 5.708. The White Goods Disposal Fund.

8 (30 ILCS 105/5.709 new)

9 Sec. 5.709. The White Goods Recycling Fund.

10 Section 10. The Environmental Protection Act is amended by  
11 changing Section 22.28 and by adding Section 22.28b as follows:

12 (415 ILCS 5/22.28) (from Ch. 111 1/2, par. 1022.28)

13 Sec. 22.28. White goods.

1 (a) Beginning July 1, 2008 ~~1994~~, no owner or operator of a  
2 landfill shall accept any white goods or white goods components  
3 for final disposal. ~~person shall knowingly offer for collection~~  
4 ~~or collect white goods for the purpose of disposal by~~  
5 ~~landfilling unless the white good components have been removed.~~

6 ~~(b) Beginning July 1, 1994, no owner or operator of a~~  
7 ~~landfill shall accept any white goods for final disposal,~~  
8 ~~except that white goods may be accepted if:~~

9 ~~(1) the landfill participates in the Industrial~~  
10 ~~Materials Exchange Service by communicating the~~  
11 ~~availability of white goods;~~

12 ~~(2) prior to final disposal, any white good components~~  
13 ~~have been removed from the white goods; and~~

14 ~~(3) if white good components are removed from the white~~  
15 ~~goods at the landfill, a site operating plan satisfying~~  
16 ~~this Act has been approved under the site operating permit~~  
17 ~~and the conditions of such operating plan are met.~~

18 (b) ~~(e)~~ For the purposes of this Section:

19 (1) "White goods" shall include all discarded  
20 refrigerators, ranges, water heaters, freezers, air  
21 conditioners, stoves, clothes washers, clothes dryers,  
22 dehumidifiers, ovens, dishwashers, water coolers, heat  
23 pumps, chillers, furnaces, and boilers ~~humidifiers and~~  
24 ~~other similar domestic and commercial large appliances.~~

25 (2) "White good components" shall include:

26 (i) any chlorofluorocarbon refrigerant gas;

1 (ii) any electrical switch containing mercury;

2 (iii) any device that contains or may contain PCBs  
3 in a closed system, such as a dielectric fluid for a  
4 capacitor, ballast or other component; and

5 (iv) any fluorescent lamp that contains mercury.

6 ~~(d) The Agency is authorized to provide financial~~  
7 ~~assistance to units of local government from the Solid Waste~~  
8 ~~Management Fund to plan for and implement programs to collect,~~  
9 ~~transport and manage white goods. Units of local government may~~  
10 ~~apply jointly for financial assistance under this Section.~~

11 ~~Applications for such financial assistance shall be~~  
12 ~~submitted to the Agency and must provide a description of:~~

13 ~~(A) the area to be served by the program;~~

14 ~~(B) the white goods intended to be included in the~~  
15 ~~program;~~

16 ~~(C) the methods intended to be used for collecting~~  
17 ~~and receiving materials;~~

18 ~~(D) the property, buildings, equipment and~~  
19 ~~personnel included in the program;~~

20 ~~(E) the public education systems to be used as part~~  
21 ~~of the program;~~

22 ~~(F) the safety and security systems that will be~~  
23 ~~used;~~

24 ~~(G) the intended processing methods for each white~~  
25 ~~goods type;~~

26 ~~(H) the intended destination for final material~~

1 ~~handling location, and~~

2 ~~(I) any staging sites used to handle collected~~  
3 ~~materials, the activities to be performed at such sites~~  
4 ~~and the procedures for assuring removal of collected~~  
5 ~~materials from such sites.~~

6 ~~The application may be amended to reflect changes in~~  
7 ~~operating procedures, destinations for collected materials, or~~  
8 ~~other factors.~~

9 ~~Financial assistance shall be awarded for a State fiscal~~  
10 ~~year, and may be renewed, upon application, if the Agency~~  
11 ~~approves the operation of the program.~~

12 ~~(c) All materials collected or received under a program~~  
13 ~~operated with financial assistance under this Section shall be~~  
14 ~~recycled whenever possible. Treatment or disposal of collected~~  
15 ~~materials are not eligible for financial assistance unless the~~  
16 ~~applicant shows and the Agency approves which materials may be~~  
17 ~~treated or disposed of under various conditions.~~

18 ~~Any revenue from the sale of materials collected under such~~  
19 ~~a program shall be retained by the unit of local government and~~  
20 ~~may be used only for the same purposes as the financial~~  
21 ~~assistance under this Section.~~

22 (c) ~~(f)~~ The Agency is authorized to adopt rules necessary  
23 or appropriate to the administration of this Section.

24 (d) No rulemaking authority. Notwithstanding any other  
25 rulemaking authority that may exist, neither the Governor nor  
26 any agency or agency head under the jurisdiction of the

1 Governor has any authority to make or promulgate rules to  
2 implement or enforce the provisions of this amendatory Act of  
3 the 95th General Assembly. If, however, the Governor believes  
4 that rules are necessary to implement or enforce the provisions  
5 of this amendatory Act of the 95th General Assembly, the  
6 Governor may suggest rules to the General Assembly by filing  
7 them with the Clerk of the House and Secretary of the Senate  
8 and by requesting that the General Assembly authorize such  
9 rulemaking by law, enact those suggested rules into law, or  
10 take any other appropriate action in the General Assembly's  
11 discretion. Nothing contained in this amendatory Act of the  
12 95th General Assembly shall be interpreted to grant rulemaking  
13 authority under any other Illinois statute where such authority  
14 is not otherwise explicitly given. For the purposes of this  
15 subsection, "rules" is given the meaning contained in Section  
16 1-70 of the Illinois Administrative Procedure Act, and "agency"  
17 and "agency head" are given the meanings contained in Sections  
18 1-20 and 1-25 of the Illinois Administrative Procedure Act to  
19 the extent that such definitions apply to agencies or agency  
20 heads under the jurisdiction of the Governor.

21 ~~(g) (Blank).~~

22 (Source: P.A. 91-798, eff. 7-9-00.)

23 (415 ILCS 5/22.28b new)

24 Sec. 22.28b. Promotion of the recycling of white goods.

25 (a) The White Goods Disposal Fund and the White Goods

1 Recycling Fund are created as special funds in the State  
2 treasury. All fees collected under this Section and all  
3 penalties or punitive damages for violations of this Section  
4 and under Sections 22.28 and 22.28a must be deposited into the  
5 Funds as follows:

6 (1) 40% is to be deposited into the White Goods  
7 Disposal Fund and is available to the Agency for  
8 enforcement of subsection (a) of Section 22.28.

9 (2) 60% is to be deposited into the White Goods  
10 Recycling Fund and is available to the Department of  
11 Commerce and Economic Opportunity for grants to directly  
12 offset the energy costs of businesses that, in any given  
13 year, manufacture more than 300,000 tons of products for  
14 sale that are composed of at least 80% post-consumer  
15 recycled content and pre-consumer recycled content by  
16 weight or volume. The Department shall establish  
17 guidelines for solicitation of grants under this Section no  
18 later than October 1, 2008. Applications for assistance  
19 shall be filed with the Department on forms provided by the  
20 Department and shall set forth such information as may be  
21 required by the Department. The Department shall evaluate  
22 the application and notify the applicant of the  
23 qualification or non-qualification of the application  
24 within 45 days after the deadline established by the  
25 Department for receipt of applications.

26 Every 2 years, the Agency and the Department shall each

1 report to the Governor and to the General Assembly on its  
2 activities relating to the White Goods Disposal Fund and the  
3 White Goods Recycling Fund.

4 (b) Each retailer who sells a new or used white good at  
5 retail in this State shall collect from the retail customer a  
6 white-good-disposal fee of \$8. The retailer may retain \$2 of  
7 the fee if the retailer provides white good consumers with  
8 information identifying the white goods that must be recycled  
9 under this Section and partners with the United States  
10 Environmental Protection Agency Responsible Appliance Disposal  
11 Program. The retailer shall pay the \$8 fee or, where the  
12 retailer qualifies to retain \$2 of the fee, \$6 to the  
13 Department of Revenue for deposit into the White Goods Disposal  
14 Fund and the White Goods Recycling Fund as designated in this  
15 Section. The retailers shall collect the white goods disposal  
16 fee from the purchaser by adding the fee to the selling price  
17 of the white good. The fee must be stated as a distinct item  
18 separate and apart from the selling price of the white good,  
19 and is not includable in the gross receipts of the retailer  
20 subject to the Retailers' Occupation Tax Act, the Use Tax Act,  
21 or any locally imposed retailers' occupation tax. The  
22 white-goods-disposal fee constitutes a debt owed by the  
23 retailer to this State. The fee under this Section does not  
24 apply to mail-order sales.

25 (c) Each retailer of white goods who maintains a place of  
26 business in this State must make a return to the Department of

1 Revenue on a quarter-annual basis, with the return for January,  
2 February, and March of a given year being due by April 30 of  
3 that year; with the return for April, May, and June of a given  
4 year being due by July 31 of that year; with the return for  
5 July, August, and September of a given year being due by  
6 October 31 of that year; and with the return for October,  
7 November, and December of a given year being due by January 31  
8 of the following year. Each return made to the Department of  
9 Revenue must contain the following:

10 (1) the name of the retailer;

11 (2) the address of the retailer's principal place of  
12 business and the address of the principal place of business  
13 (if that is a different address) from which the retailer  
14 engages in the business of making retail sales of white  
15 goods;

16 (3) the total number of white goods sold at retail in  
17 the preceding calendar quarter;

18 (4) the total amount of white-goods-disposal fees  
19 collected in the preceding calendar quarter;

20 (5) if the retailer retains \$2 of the disposal fee, the  
21 retailer shall provide proof of the information it provides  
22 to consumers identifying the white goods that must be  
23 recycled under this Section and proof of participation in  
24 the United States Environmental Protection Agency  
25 Responsible Appliance Disposal Program; and

26 (6) any other information that the Department of



1       Revenue reasonably requires.

2       Notwithstanding any other provision of law concerning the  
3 time within which a retailer may file his or her return, in the  
4 case of any retailer who ceases to engage in the retail sale of  
5 white goods, the retailer must file a final return under this  
6 Section with the Department of Revenue not more than one  
7 calendar month after discontinuing that business.

8       (d) All the provisions of Sections 4, 5, 5a, 5b, 5c, 5d,  
9 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, and 13 of  
10 the Retailers' Occupation Tax Act that are not inconsistent  
11 with this Section apply, as far as practical, to the fee  
12 imposed by subsection (b) of this Section to the same extent as  
13 if those provisions were included in this Section. References  
14 in the incorporated Sections of the Retailers' Occupation Tax  
15 Act to retailers, to sellers, or to persons engaged in the  
16 business of selling tangible personal property mean retailers  
17 of white goods.

18       (d) The Department of Revenue may adopt and enforce any  
19 reasonable rule to administer and enforce the fee imposed by  
20 subsection (b) of this Section.

21       Whenever the Department of Revenue is required to provide  
22 notice to a retailer under this Section, the notice may be  
23 personally served or given by United States certified or  
24 registered mail, addressed to the retailer or taxpayer  
25 concerned at his or her last known address, and proof of this  
26 mailing is sufficient for the purposes of this Section. In the

1 case of a notice of hearing, the Department must mail the  
2 notice at least 7 days prior to the date fixed for the hearing.

3 All hearings provided by the Department of Revenue under  
4 this Section with respect to or concerning a taxpayer having  
5 his or her principal place of business in this State other than  
6 in Cook County shall be held at the Department's office nearest  
7 to the location of the taxpayer's principal place of business.  
8 If the taxpayer has his or her principal place of business in  
9 Cook County, then the hearing must be held in Cook County. If  
10 the taxpayer does not have his or her principal place of  
11 business in this State, then the hearing must be held in  
12 Sangamon County.

13 If any proceeding under this Section has been begun by the  
14 Department of Revenue or by a person subject thereto and that  
15 person subsequently dies or becomes a person under legal  
16 disability before the proceeding has been concluded, then the  
17 legal representative of the deceased person or person under  
18 legal disability shall notify the Department of Revenue of the  
19 death or legal disability. The Department must substitute the  
20 legal representative, as such, in place of and for the person.  
21 Within 20 days after notice to the legal representative of the  
22 time fixed for that purpose, the proceeding may proceed in all  
23 respects and with like effect as though the person had not died  
24 or become a person under legal disability.

25 (e) The Illinois Administrative Procedure Act is expressly  
26 adopted and applies to all administrative rules and procedures

1 of the Department of Revenue under this Section, except that:  
2 (1) paragraph (b) of Section 4 of the Illinois Administrative  
3 Procedure Act does not apply to final orders, decisions, and  
4 opinions of the Department of Revenue; (2) subparagraph (a)(2)  
5 of Section 4 of the Illinois Administrative Procedure Act does  
6 not apply to forms established by the Department of Revenue for  
7 use under this Section; and (3) the provisions of Section 13 of  
8 the Illinois Administrative Procedure Act regarding proposals  
9 for decision are excluded and not applicable to the Department  
10 of Revenue under this Section.

11 (f) The circuit court of any county in which a hearing is  
12 held has the power to review all final administrative decisions  
13 of the Department of Revenue in administering the fee imposed  
14 under subsection (b) of this Section. If, however, the  
15 administrative proceeding that is to be reviewed judicially is  
16 a claim for refund proceeding commenced under this Act and  
17 Section 2a of the State Officers and Employees Money  
18 Disposition Act, the circuit court having jurisdiction over the  
19 action for judicial review under this Section and under the  
20 Administrative Review Law is the same court that entered the  
21 temporary restraining order or preliminary injunction that is  
22 provided for in that Section 2a, and that enables the claim  
23 proceeding to be processed and disposed of as a claim for  
24 refund proceeding other than as a claim for credit proceeding.

25 The provisions of the Administrative Review Law apply to  
26 and govern all proceedings for the judicial review of final

1 administrative decisions of the Department of Revenue under  
2 this Section. The term "administrative decision" is defined as  
3 in Section 3-101 of the Code of Civil Procedure.

4 Service of summons issued in any action to review a final  
5 administrative decision upon the Director or Assistant  
6 Director of Revenue shall be service upon the Department of  
7 Revenue. The Department of Revenue shall certify the record of  
8 its proceedings if the taxpayer pays to it the sum of \$0.75 per  
9 page of testimony taken before the Department of Revenue and  
10 \$0.25 per page of all other matters contained in the record,  
11 except that these charges may be waived if the Department of  
12 Revenue is satisfied that the aggrieved party cannot afford to  
13 pay these charges.

14 (g) Any retailer who fails to collect the fee required  
15 under subsection (b) is guilty of a petty offense as is subject  
16 to a fine of \$100.

17 Any retailer who fails to make a return or who makes a  
18 fraudulent return or who willfully violates any rule or  
19 regulation of the Department of Revenue for the administration  
20 and enforcement of the fee imposed by this Section is guilty of  
21 a Class 4 felony.

22 (h) For the purpose of this Section, "white good" has the  
23 meaning set forth in Section 22.28.

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law."