

1 AN ACT in relation to taxes.

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

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 8-11-2 as follows:

6 (65 ILCS 5/8-11-2) (from Ch. 24, par. 8-11-2)

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

10 1. Persons engaged in the business of transmitting
11 messages by means of electricity or radio magnetic waves,
12 or fiber optics, at a rate not to exceed 5% of the gross
13 receipts from that business originating within the
14 corporate limits of the municipality. Beginning January
15 1, 2001, prepaid telephone calling arrangements shall not
16 be subject to the tax imposed under this Section. For
17 purposes of this Section, "prepaid telephone calling
18 arrangements" means that term as defined in Section 2-27
19 of the Retailers' Occupation Tax Act.

20 2. Persons engaged in the business of distributing,
21 supplying, furnishing, or selling gas for use or
22 consumption within the corporate limits of a municipality
23 of 500,000 or fewer population, and not for resale, at a
24 rate not to exceed 5% of the gross receipts therefrom.

25 2a. Persons engaged in the business of
26 distributing, supplying, furnishing, or selling gas for
27 use or consumption within the corporate limits of a
28 municipality of over 500,000 population, and not for
29 resale, at a rate not to exceed 8% of the gross receipts
30 therefrom. If imposed, this tax shall be paid in monthly
31 payments.

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

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

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

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

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

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

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

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

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

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

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

27 If a municipality imposes a tax at rates lower than
28 either the maximum rates specified in this Section or the
29 alternative maximum rates promulgated by the Illinois
30 Commerce Commission, as provided below, the tax rates
31 shall be imposed upon the kilowatt hour categories set
32 forth above with the same proportional relationship as
33 that which exists among such maximum rates.
34 Notwithstanding the foregoing, until December 31, 2008,

1 no municipality shall establish rates that are in excess
2 of rates reasonably calculated to produce revenues that
3 equal the maximum total revenues such municipality could
4 have received under the tax authorized by this
5 subparagraph in the last full calendar year prior to the
6 effective date of Section 65 of this amendatory Act of
7 1997; provided that this shall not be a limitation on the
8 amount of tax revenues actually collected by such
9 municipality.

10 Upon the request of the corporate authorities of a
11 municipality, the Illinois Commerce Commission shall,
12 within 90 days after receipt of such request, promulgate
13 alternative rates for each of these kilowatt-hour
14 categories that will reflect, as closely as reasonably
15 practical for that municipality, the distribution of the
16 tax among classes of purchasers as if the tax were based
17 on a uniform percentage of the purchase price of
18 electricity. A municipality that has adopted an
19 ordinance imposing a tax pursuant to subparagraph 3 as it
20 existed prior to the effective date of Section 65 of this
21 amendatory Act of 1997 may, rather than imposing the tax
22 permitted by this amendatory Act of 1997, continue to
23 impose the tax pursuant to that ordinance with respect to
24 gross receipts received from residential customers
25 through July 31, 1999, and with respect to gross receipts
26 from any non-residential customer until the first bill
27 issued to such customer for delivery services in
28 accordance with Section 16-104 of the Public Utilities
29 Act but in no case later than the last bill issued to
30 such customer before December 31, 2000. No ordinance
31 imposing the tax permitted by this amendatory Act of 1997
32 shall be applicable to any non-residential customer until
33 the first bill issued to such customer for delivery
34 services in accordance with Section 16-104 of the Public

1 Utilities Act but in no case later than the last bill
2 issued to such non-residential customer before December
3 31, 2000.

4 4. Persons engaged in the business of distributing,
5 supplying, furnishing, or selling water for use or
6 consumption within the corporate limits of the
7 municipality, and not for resale, at a rate not to exceed
8 5% of the gross receipts therefrom.

9 None of the taxes authorized by this Section may be
10 imposed with respect to any transaction in interstate
11 commerce or otherwise to the extent to which the business or
12 privilege may not, under the constitution and statutes of the
13 United States, be made the subject of taxation by this State
14 or any political sub-division thereof; nor shall any persons
15 engaged in the business of distributing, supplying,
16 furnishing, selling or transmitting gas, water, or
17 electricity, or engaged in the business of transmitting
18 messages, or using or consuming electricity acquired in a
19 purchase at retail, be subject to taxation under the
20 provisions of this Section for those transactions that are or
21 may become subject to taxation under the provisions of the
22 "Municipal Retailers' Occupation Tax Act" authorized by
23 Section 8-11-1; nor shall any tax authorized by this Section
24 be imposed upon any person engaged in a business or on any
25 privilege unless the tax is imposed in like manner and at the
26 same rate upon all persons engaged in businesses of the same
27 class in the municipality, whether privately or municipally
28 owned or operated, or exercising the same privilege within
29 the municipality.

30 Any of the taxes enumerated in this Section may be in
31 addition to the payment of money, or value of products or
32 services furnished to the municipality by the taxpayer as
33 compensation for the use of its streets, alleys, or other
34 public places, or installation and maintenance therein,

1 thereon or thereunder of poles, wires, pipes or other
2 equipment used in the operation of the taxpayer's business.

3 (a) If the corporate authorities of any home rule
4 municipality have adopted an ordinance that imposed a tax on
5 public utility customers, between July 1, 1971, and October
6 1, 1981, on the good faith belief that they were exercising
7 authority pursuant to Section 6 of Article VII of the 1970
8 Illinois Constitution, that action of the corporate
9 authorities shall be declared legal and valid,
10 notwithstanding a later decision of a judicial tribunal
11 declaring the ordinance invalid. No municipality shall be
12 required to rebate, refund, or issue credits for any taxes
13 described in this paragraph, and those taxes shall be deemed
14 to have been levied and collected in accordance with the
15 Constitution and laws of this State.

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

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

9 (c) The tax authorized by subparagraph 3 shall be
10 collected from the purchaser by the person maintaining a
11 place of business in this State who delivers the electricity
12 to the purchaser. This tax shall constitute a debt of the
13 purchaser to the person who delivers the electricity to the
14 purchaser and if unpaid, is recoverable in the same manner as
15 the original charge for delivering the electricity. Any tax
16 required to be collected pursuant to an ordinance authorized
17 by subparagraph 3 and any such tax collected by a person
18 delivering electricity shall constitute a debt owed to the
19 municipality by such person delivering the electricity,
20 provided, that the person delivering electricity shall be
21 allowed credit for such tax related to deliveries of
22 electricity the charges for which are written off as
23 uncollectible, and provided further, that if such charges are
24 thereafter collected, the delivering supplier shall be
25 obligated to remit such tax. For purposes of this subsection
26 (c), any partial payment not specifically identified by the
27 purchaser shall be deemed to be for the delivery of
28 electricity. Persons delivering electricity shall collect the
29 tax from the purchaser by adding such tax to the gross charge
30 for delivering the electricity, in the manner prescribed by
31 the municipality. Persons delivering electricity shall also
32 be authorized to add to such gross charge an amount equal to
33 3% of the tax to reimburse the person delivering electricity
34 for the expenses incurred in keeping records, billing

1 customers, preparing and filing returns, remitting the tax
2 and supplying data to the municipality upon request. If the
3 person delivering electricity fails to collect the tax from
4 the purchaser, then the purchaser shall be required to pay
5 the tax directly to the municipality in the manner prescribed
6 by the municipality. Persons delivering electricity who file
7 returns pursuant to this paragraph (c) shall, at the time of
8 filing such return, pay the municipality the amount of the
9 tax collected pursuant to subparagraph 3.

10 (d) For the purpose of the taxes enumerated in this
11 Section:

12 "Gross receipts" means the consideration received for the
13 transmission of messages, the consideration received for
14 distributing, supplying, furnishing or selling gas for use or
15 consumption and not for resale, and the consideration
16 received for distributing, supplying, furnishing or selling
17 water for use or consumption and not for resale, and for all
18 services rendered in connection therewith valued in money,
19 whether received in money or otherwise, including cash,
20 credit, services and property of every kind and material and
21 for all services rendered therewith, and shall be determined
22 without any deduction on account of the cost of transmitting
23 such messages, without any deduction on account of the cost
24 of the service, product or commodity supplied, the cost of
25 materials used, labor or service cost, or any other expenses
26 whatsoever. "Gross receipts" shall not include that portion
27 of the consideration received for distributing, supplying,
28 furnishing, or selling gas or water to, or for the
29 transmission of messages for, business enterprises described
30 in paragraph (e) of this Section to the extent and during the
31 period in which the exemption authorized by paragraph (e) is
32 in effect or for school districts or units of local
33 government described in paragraph (f) during the period in
34 which the exemption authorized in paragraph (f) is in effect.

1 "Gross receipts" shall not include amounts paid by
2 telecommunications retailers under the Telecommunications
3 Municipal Infrastructure Maintenance Fee Act.

4 For utility bills issued on or after May 1, 1996, but
5 before May 1, 1997, and for receipts from those utility
6 bills, "gross receipts" does not include one-third of (i)
7 amounts added to customers' bills under Section 9-222 of the
8 Public Utilities Act, or (ii) amounts added to customers'
9 bills by taxpayers who are not subject to rate regulation by
10 the Illinois Commerce Commission for the purpose of
11 recovering any of the tax liabilities described in Section
12 9-222 of the Public Utilities Act. For utility bills issued
13 on or after May 1, 1997, but before May 1, 1998, and for
14 receipts from those utility bills, "gross receipts" does not
15 include two-thirds of (i) amounts added to customers' bills
16 under Section 9-222 of the Public Utilities Act, or (ii)
17 amount added to customers' bills by taxpayers who are not
18 subject to rate regulation by the Illinois Commerce
19 Commission for the purpose of recovering any of the tax
20 liabilities described in Section 9-222 of the Public
21 Utilities Act. For utility bills issued on or after May 1,
22 1998, and for receipts from those utility bills, "gross
23 receipts" does not include (i) amounts added to customers'
24 bills under Section 9-222 of the Public Utilities Act, or
25 (ii) amounts added to customers' bills by taxpayers who are
26 not subject to rate regulation by the Illinois Commerce
27 Commission for the purpose of recovering any of the tax
28 liabilities described in Section 9-222 of the Public
29 Utilities Act.

30 For purposes of this Section "gross receipts" shall not
31 include (i) amounts added to customers' bills under Section
32 9-221 of the Public Utilities Act, or (ii) charges added to
33 customers' bills to recover the surcharge imposed under the
34 Emergency Telephone System Act. This paragraph is not

1 intended to nor does it make any change in the meaning of
2 "gross receipts" for the purposes of this Section, but is
3 intended to remove possible ambiguities, thereby confirming
4 the existing meaning of "gross receipts" prior to the
5 effective date of this amendatory Act of 1995.

6 The words "transmitting messages", in addition to the
7 usual and popular meaning of person to person communication,
8 shall include the furnishing, for a consideration, of
9 services or facilities (whether owned or leased), or both, to
10 persons in connection with the transmission of messages where
11 those persons do not, in turn, receive any consideration in
12 connection therewith, but shall not include such furnishing
13 of services or facilities to persons for the transmission of
14 messages to the extent that any such services or facilities
15 for the transmission of messages are furnished for a
16 consideration, by those persons to other persons, for the
17 transmission of messages.

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

25 "Person maintaining a place of business in this State"
26 shall mean any person having or maintaining within this
27 State, directly or by a subsidiary or other affiliate, an
28 office, generation facility, distribution facility,
29 transmission facility, sales office or other place of
30 business, or any employee, agent, or other representative
31 operating within this State under the authority of the person
32 or its subsidiary or other affiliate, irrespective of whether
33 such place of business or agent or other representative is
34 located in this State permanently or temporarily, or whether

1 such person, subsidiary or other affiliate is licensed or
2 qualified to do business in this State.

3 "Public utility" shall have the meaning ascribed to it in
4 Section 3-105 of the Public Utilities Act and shall include
5 telecommunications carriers as defined in Section 13-202 of
6 that Act and alternative retail electric suppliers as defined
7 in Section 16-102 of that Act.

8 "Purchase at retail" shall mean any acquisition of
9 electricity by a purchaser for purposes of use or
10 consumption, and not for resale, but shall not include the
11 use of electricity by a public utility directly in the
12 generation, production, transmission, delivery or sale of
13 electricity.

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

17 In the case of persons engaged in the business of
18 transmitting messages through the use of mobile equipment,
19 such as cellular phones and paging systems, the gross
20 receipts from the business shall be deemed to originate
21 within the corporate limits of a municipality only if the
22 address to which the bills for the service are sent is within
23 those corporate limits. If, however, that address is not
24 located within a municipality that imposes a tax under this
25 Section, then (i) if the party responsible for the bill is
26 not an individual, the gross receipts from the business shall
27 be deemed to originate within the corporate limits of the
28 municipality where that party's principal place of business
29 in Illinois is located, and (ii) if the party responsible for
30 the bill is an individual, the gross receipts from the
31 business shall be deemed to originate within the corporate
32 limits of the municipality where that party's principal
33 residence in Illinois is located.

34 (e) Any municipality that imposes taxes upon public

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

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

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

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

24 Upon adoption of the ordinance authorizing the exemption,
25 the municipal clerk shall transmit a copy of that ordinance
26 to the Department of Commerce and Community Affairs. The
27 Department of Commerce and Community Affairs shall determine
28 whether the business enterprises located in the municipality
29 meet the criteria prescribed in this paragraph. If the
30 Department of Commerce and Community Affairs determines that
31 the business enterprises meet the criteria, it shall grant
32 certification. The Department of Commerce and Community
33 Affairs shall act upon certification requests within 30 days
34 after receipt of the ordinance.

1 Upon certification of the business enterprise by the
2 Department of Commerce and Community Affairs, the Department
3 of Commerce and Community Affairs shall notify the Department
4 of Revenue of the certification. The Department of Revenue
5 shall notify the public utilities of the exemption status of
6 the gross receipts received from, and the electricity used or
7 consumed by, the certified business enterprises. Such
8 exemption status shall be effective within 3 months after
9 certification.

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

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

21 (h) In any case in which, before July 1, 1992, a person
22 engaged in the business of transmitting messages through the
23 use of mobile equipment, such as cellular phones and paging
24 systems, has determined the municipality within which the
25 gross receipts from the business originated by reference to
26 the location of its transmitting or switching equipment, then
27 (i) neither the municipality to which tax was paid on that
28 basis nor the taxpayer that paid tax on that basis shall be
29 required to rebate, refund, or issue credits for any such tax
30 or charge collected from customers to reimburse the taxpayer
31 for the tax and (ii) no municipality to which tax would have
32 been paid with respect to those gross receipts if the
33 provisions of this amendatory Act of 1991 had been in effect
34 before July 1, 1992, shall have any claim against the

1 taxpayer for any amount of the tax.

2 (i) Verification of customer tax liability. When a
3 public utility initially provides to a customer a service
4 that is taxed under this Section, that public utility must
5 confirm whether the customer's use or consumption of the
6 service will take place within the corporate limits of a
7 municipality or, in the case of messages transmitted by means
8 of electricity or radio magnetic waves or fiber optics,
9 whether the origination of the message will take place within
10 the corporate limits of a municipality. If the use or
11 consumption or the origination of the message does not take
12 place within a particular municipality, then that
13 municipality may not impose a tax on the customer and the
14 public utility may not collect a tax from the customer on
15 behalf of that municipality under this Section or, with
16 respect to a type of tax identified in this Section, under
17 any home rule power.

18 (j) Notice to taxpayers concerning municipal boundaries.
19 Each bill sent to a customer for any item subject to a tax
20 imposed under this Section or subject to a type of tax
21 identified in this Section that is imposed under a home rule
22 power must contain a notice, in bold print, stating that the
23 municipal tax may be imposed only with respect to use or
24 consumption within the corporate limits of the municipality
25 or, in the case of messages transmitted by means of
26 electricity or radio magnetic waves or fiber optics, the
27 origination of the message within the corporate limits of the
28 municipality. The notice must state that any person who
29 believes he or she is not subject to the tax should notify
30 the municipality. The municipality must investigate and
31 correct any errors promptly.

32 (Source: P.A. 90-16, eff. 6-16-97; 90-561, eff. 8-1-98;
33 90-562, eff. 12-16-97; 90-655, eff. 7-30-98; 91-870, eff.
34 6-22-00.)

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