

AN ACT concerning local government.

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

Section 5. The Electricity Infrastructure Maintenance Fee Law is amended by adding Section 5-10 as follows:

(35 ILCS 645/5-10 new)

Sec. 5-10. Municipal tax review; requests for information.

(a) A municipality may conduct an audit of fees under this Act to determine the accuracy of the fees paid by an electricity deliverer.

(b) Not more than once every 2 years, a municipality that has imposed a fee under this Law may, subject to the limitations and protections stated in Section 16-122 of the Public Utilities Act, request any information from an electricity deliverer that the municipality reasonably requires in order to perform an audit under subsection (a). The information that may be requested by the municipality includes, without limitation:

(1) in an electronic format, the database used by the electricity deliverer to determine the amount due to the municipality; provided, however, that, if the municipality has requested customer-specific billing, usage, and load shape data from an electricity deliverer that is an

electric utility and has not provided the electric utility with the verifiable authorization required by Section 16-122 of the Public Utilities Act, then the electric utility shall remove from the database all customer-specific billing, usage, and load shape data before providing it to the municipality; and

(2) in a format used by the public utility in the ordinary course of its business, summary data, as needed by the municipality, to determine the unit consumption by providing the gross kilowatt-hours or other units of measurement subject to the fee imposed by this Law within the municipal jurisdiction.

(c) Each electricity deliverer must provide the information requested under subsection (b) within:

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

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

The time in which an electricity deliverer must provide the information requested under subsection (b) may be extended by an agreement between the municipality and the electricity deliverer. If an electricity deliverer receives, during a single month, information requests from more than 2 municipalities, or the aggregate population of the requesting municipalities is 100,000 customers or more, the electricity

deliverer is entitled to an additional 30 days to respond to those requests.

(d) If an audit by the municipality or its agents finds an error by the electricity deliverer in the amount of fees collected or paid by the electricity deliverer, then the municipality must notify the electricity deliverer of the error. Any such notice must be issued pursuant to Section 30 of the Local Government Taxpayers' Bill of Rights Act or a lesser period of time from the date the fee was due that may be specified in the municipal ordinance imposing the fee. Upon such a notice, any audit shall be conducted pursuant to Section 35 of the Local Government Taxpayers' Bill of Rights Act subject to the timelines set forth in this subsection (d). The electricity deliverer must submit a written response within 60 days after the date the notice was postmarked stating that it has corrected the error or stating the reason that the error is inapplicable or inaccurate. The municipality then has 60 days after the receipt of the electricity deliverer's response to review and contest the conclusion of the electricity deliverer. If the parties are unable to agree on the disposition of the audit findings within 120 days after the notification of the error to the electricity deliverer, then either party may submit the matter for appeal as outlined in Section 40 of the Local Government Taxpayers' Bill of Rights Act. If the appeals process does not produce a satisfactory result, then either party may pursue the alleged error in a court of competent

jurisdiction.

(e) Electricity deliverers and municipalities are not liable for any error in past collections and payments that was unknown to either the electricity deliverer or the municipality prior to the audit process unless the error was due to negligence in the collection or processing of required data. If, however, an error in past collections or payments resulted in a customer, who should not have owed a fee to any municipality, having paid a fee to a municipality, then the customer may, to the extent allowed by Section 9-252 of the Public Utilities Act, recover the fee from the electricity deliverer, and any amount so paid by the electricity deliverer may be deducted by that electricity deliverer from any fees or taxes then or thereafter owed by the electricity deliverer to that municipality.

(f) All account specific information provided by an electricity deliverer under this Section may be used only for the purpose of an audit of fees conducted under this Section and the enforcement of any related claim. All such information must be held in strict confidence by the municipality and its agents and may not be disclosed to the public under the Freedom of Information Act or under any other similar statutes allowing for or requiring public disclosure.

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

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

Section 10. The Local Government Taxpayers' Bill of Rights Act is amended by changing Sections 10 and 35 as follows:

(50 ILCS 45/10)

Sec. 10. Application and home rule preemption. The limitations provided by this Act shall take precedence over any provision of any tax ordinance imposed by a unit of local government, as defined in this Act, in Illinois, including without limitation any tax authorized under Section 8-11-2 of the Illinois Municipal Code.

Consistent with the limitations provided by this Act, a municipality, other than a municipality having a population greater than 1,000,000, may not impose any penalty with respect to a tax authorized by Section 8-11-2 of the Illinois Municipal Code or with respect to an audit authorized by Section 8-11-2.5 of the Illinois Municipal Code, except as specified in Sections 50, 55, and 60 of this Act.

This Act is a denial and limitation of home rule powers and functions under subsection (g) of Section 6 of Article VII of the Illinois Constitution.

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

(50 ILCS 45/35)

Sec. 35. Audit procedures. Taxpayers have the right to be treated by officers, employees, and agents of the local tax administrator with courtesy, fairness, uniformity, consistency, and common sense. This Section applies to any audit of a tax imposed by a unit of local government other than a municipality having a population greater than 1,000,000, except to the extent otherwise provided in Section 8-11-2.5 of the Illinois Municipal Code. Taxpayers must be notified in writing by the local jurisdiction of a proposed audit of the taxpayer's books and records clearly identifying who will be conducting the audit. For audits being conducted by third-party providers, the local jurisdiction must provide written authorization for the third-party provider to review the books and records of the taxpayer. No contact may be made by the third-party provider until the local-jurisdiction authorization is received by the taxpayer. The notice of audit must specify the tax and time period to be audited and must detail the minimum documentation or books and records to be made available to the auditor. Audits must be held only during reasonable times of the day and, unless impracticable, at times agreed to by the taxpayer. The auditor must sign a confidentiality agreement upon request by the taxpayer. Upon the completion of the audit, the local jurisdiction must issue an audit closure report to the taxpayer with the results of the audit. An auditor who determines that there has been an overpayment of tax during the course of the audit is obligated

to identify the overpayment to the taxpayer so that the taxpayer can take the necessary steps to recover the overpayment. If the overpayment is the result of the application of some or all of the taxpayer's tax payment to an incorrect local government entity, then upon request by a unit of local government, the audit information must be given to any unit of local government that may be affected by an overpayment ~~the auditor must notify the correct local government entity of the taxpayer's application error.~~

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

Section 15. The Counties Code is amended by adding Section 5-1095.1 as follows:

(55 ILCS 5/5-1095.1 new)

Sec. 5-1095.1. County franchise fee review; requests for information.

(a) If pursuant to its franchise agreement with a community antenna television system (CATV) operator, a county imposes a franchise fee authorized by 47 U.S.C. 542, then the county may conduct an audit of that CATV operator's franchise fees derived from the provision of cable and video services to subscribers within the franchise area to determine whether the amount of franchise fees paid by that CATV operator to the county was accurate. Any audit conducted under this subsection (a) shall determine any overpayment or underpayment to the county by the

CATV operator, and the amount due to the county or CATV operator is limited to the net difference.

(b) Not more than once every 2 years, a county that has imposed a franchise fee authorized by 47 U.S.C. 542 may, subject to the limitations and protections stated in the Local Government Taxpayers' Bill of Rights Act, request information from the CATV operator in the format maintained by the CATV operator in the ordinary course of its business that the county reasonably requires in order to perform an audit under subsection (a). The information that may be requested by the county includes without limitation the following:

(1) in an electronic format used by the CATV operator in the ordinary course of its business, the database used by the CATV operator to determine the amount of the franchise fee due to the county; and

(2) in a format used by the CATV operator in the ordinary course of its business, summary data, as needed by the county, to determine the CATV operator's franchise fees derived from the provision of cable and video services to subscribers within the CATV operator's franchise area.

(c) The CATV operator must provide the information requested under subsection (b) within:

(1) 60 days after the receipt of the request if the population of the requesting county is 500,000 or less; or

(2) 90 days after the receipt of the request if the population of the requesting county exceeds 500,000.

The time in which a CATV operator must provide the information requested under subsection (b) may be extended by an agreement between the county and the CATV operator.

(d) If an audit by the county or its agents finds an error by the CATV operator in the amount of the franchise fees paid by the CATV operator to the county, then the county may notify the CATV operator of the error. Any such notice must be given to the CATV operator by the county within 90 days after the county discovers the error, and no later than 4 years after the date the franchise fee was due. Upon such a notice, the CATV operator must submit a written response within 60 days after receipt of the notice stating that the CATV operator has corrected the error on a prospective basis or stating the reason that the error is inapplicable or inaccurate. The county then has 60 days after the receipt of the CATV operator's response to review and contest the conclusion of the CATV operator. No legal proceeding to collect a deficiency based upon an alleged error shall be commenced unless within 180 days after the county's notification of the error to the CATV operator the parties are unable to agree on the disposition of the audit findings.

(e) No CATV operator is liable for any error in past franchise fee payments that was unknown by the CATV operator prior to the audit process unless (i) the error was due to negligence on the part of the CATV operator in the collection or processing of required data and (ii) the county had not

failed to respond in writing in a timely manner to any written request of the CATV operator to review and correct information used by the CATV operator to calculate the appropriate franchise fees if a diligent review of such information by the county reasonably could have been expected to discover such error.

(f) All account specific information provided by a CATV operator under this Section may be used only for the purpose of an audit conducted under this Section and the enforcement of any franchise fee delinquent claim. All such information must be held in strict confidence by the county and its agents and may not be disclosed to the public under the Freedom of Information Act or under any other similar statutes allowing for or requiring public disclosure.

(g) For the purposes of this Section, "CATV operator" means a person or entity that provides cable and video services under a franchise agreement with a county pursuant to Section 5-1095 of the Counties Code and a holder authorized under Section 21-401 of the Cable and Video Competition Law of 2007 as consistent with Section 21-901 of that Law.

(h) This Section does not apply to any action that was commenced, to any complaint that was filed, or to any audit that was commenced before the effective date of this amendatory Act of the 96th General Assembly. This Section also does not apply to any franchise agreement that was entered into before the effective date of this amendatory Act of the 96th General

Assembly unless the franchise agreement contains audit provisions but no specifics regarding audit procedures.

(i) The provisions of this Section shall not be construed as diminishing or replacing any civil remedy available to a county, taxpayer, or tax collector.

(j) If a contingent fee is paid to an auditor, then the payment must be based upon the net difference of the complete audit.

(k) Within 90 days after the effective date of this amendatory Act of the 96th General Assembly, a county shall provide to any CATV operator a complete list of addresses within the corporate limits of the county and shall annually update the list.

(l) This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 20. The Illinois Municipal Code is amended by adding Sections 8-11-2.5 and 11-42-11.05 as follows:

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

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

(a) If a municipality has imposed a tax under Section 8-11-2, then the municipality may conduct an audit of tax receipts collected from the public utility that is subject to

the tax or that collects the tax from purchasers on behalf of the municipality to determine whether the amount of tax that was paid by the public utility was accurate.

(b) Not more than once every 2 years, a municipality that has imposed a tax under this Act may, subject to the limitations and protections stated in Section 16-122 of the Public Utilities Act and in the Local Government Taxpayers' Bill of Rights Act, request any information from a utility in the format maintained by the public utility in the ordinary course of its business that the municipality reasonably requires in order to perform an audit under subsection (a). The information that may be requested by the municipality includes, without limitation:

(1) in an electronic format used by the public utility in the ordinary course of its business, the database used by the public utility to determine the amount of tax due to the municipality; provided, however, that, if the municipality has requested customer-specific billing, usage, and load shape data from a public utility that is an electric utility and has not provided the electric utility with the verifiable authorization required by Section 16-122 of the Public Utilities Act, then the electric utility shall remove from the database all customer-specific billing, usage, and load shape data before providing it to the municipality; and

(2) in a format used by the public utility in the

ordinary course of its business, summary data, as needed by the municipality, to determine the unit consumption of utility services by providing the gross therms, kilowatts, minutes, or other units of measurement being taxed within the municipal jurisdiction and the gross revenues collected and the associated taxes assessed.

(c) Each public utility must provide the information requested under subsection (b) within:

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

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

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

(d) If an audit by the municipality or its agents finds an error by the public utility in the amount of taxes paid by the public utility, then the municipality must notify the public utility of the error. Any such notice must be issued pursuant to Section 30 of the Local Government Taxpayers' Bill of Rights

Act or a lesser period of time from the date the tax was due that may be specified in the municipal ordinance imposing the tax. Upon such a notice, any audit shall be conducted pursuant to Section 35 of the Local Government Taxpayers' Bill of Rights Act subject to the timelines set forth in this subsection (d). The public utility must submit a written response within 60 days after the date the notice was postmarked stating that it has corrected the error or stating the reason that the error is inapplicable or inaccurate. The municipality then has 60 days after the receipt of the public utility's response to review and contest the conclusion of the public utility. If the parties are unable to agree on the disposition of the audit findings within 120 days after the notification of the error to the public utility, then either party may submit the matter for appeal as outlined in Section 40 of the Local Government Taxpayers' Bill of Rights Act. If the appeals process does not produce a satisfactory result, then either party may pursue the alleged error in a court of competent jurisdiction.

(e) No public utility is liable for any error in past collections and payments that was unknown by it prior to the audit process unless (i) the error was due to negligence by the public utility in the collection or processing of required data and (ii) the municipality had not failed to respond in writing on an accurate and timely basis to any written request of the public utility to review and correct information used by the public utility to collect the municipality's tax if a diligent

review of such information by the municipality reasonably could have been expected to discover such error. If, however, an error in past collections or payments resulted in a customer, who should not have owed a tax to any municipality, having paid a tax to a municipality, then the customer may, to the extent allowed by Section 9-252 of the Public Utilities Act, recover the tax from the public utility, and any amount so paid by the public utility may be deducted by that public utility from any taxes then or thereafter owed by the public utility to that municipality.

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

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

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

(65 ILCS 5/11-42-11.05 new)

Sec. 11-42-11.05. Municipal franchise fee review; requests

for information.

(a) If pursuant to its franchise agreement with a community antenna television system (CATV) operator, a municipality imposes a franchise fee authorized by 47 U.S.C. 542, then the municipality may conduct an audit of that CATV operator's franchise fees derived from the provision of cable and video services to subscribers within the franchise area to determine whether the amount of franchise fees paid by that CATV operator to the municipality was accurate. Any audit conducted under this subsection (a) shall determine any overpayment or underpayment to the municipality by the CATV operator, and the amount due to the municipality or CATV operator is limited to the net difference.

(b) Not more than once every 2 years, a municipality that has imposed a franchise fee authorized by 47 U.S.C. 542 may, subject to the limitations and protections stated in the Local Government Taxpayers' Bill of Rights Act, request information from the CATV operator in the format maintained by the CATV operator in the ordinary course of its business that the municipality reasonably requires in order to perform an audit under subsection (a). The information that may be requested by the municipality includes without limitation the following:

(1) in an electronic format used by the CATV operator in the ordinary course of its business, the database used by the CATV operator to determine the amount of the franchise fee due to the municipality; and

(2) in a format used by the CATV operator in the ordinary course of its business, summary data, as needed by the municipality, to determine the CATV operator's franchise fees derived from the provision of cable and video services to subscribers within the CATV operator's franchise area.

(c) The CATV operator must provide the information requested under subsection (b) within:

(1) 60 days after the receipt of the request if the population of the requesting municipality is 500,000 or less; or

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

The time in which a CATV operator must provide the information requested under subsection (b) may be extended by an agreement between the municipality and the CATV operator.

(d) If an audit by the municipality or its agents finds an error by the CATV operator in the amount of the franchise fees paid by the CATV operator to the municipality, then the municipality may notify the CATV operator of the error. Any such notice must be given to the CATV operator by the municipality within 90 days after the municipality discovers the error, and no later than 4 years after the date the franchise fee was due. Upon such a notice, the CATV operator must submit a written response within 60 days after receipt of the notice stating that the CATV operator has corrected the

error on a prospective basis or stating the reason that the error is inapplicable or inaccurate. The municipality then has 60 days after the receipt of the CATV operator's response to review and contest the conclusion of the CATV operator. No legal proceeding to collect a deficiency based upon an alleged error shall be commenced unless within 180 days after the municipality's notification of the error to the CATV operator the parties are unable to agree on the disposition of the audit findings.

(e) No CATV operator is liable for any error in past franchise fee payments that was unknown by the CATV operator prior to the audit process unless (i) the error was due to negligence on the part of the CATV operator in the collection or processing of required data and (ii) the municipality had not failed to respond in writing in a timely manner to any written request of the CATV operator to review and correct information used by the CATV operator to calculate the appropriate franchise fees if a diligent review of such information by the municipality reasonably could have been expected to discover such error.

(f) All account specific information provided by a CATV operator under this Section may be used only for the purpose of an audit conducted under this Section and the enforcement of any franchise fee delinquent claim. All such information must be held in strict confidence by the municipality and its agents and may not be disclosed to the public under the Freedom of

Information Act or under any other similar statutes allowing for or requiring public disclosure.

(g) For the purposes of this Section, "CATV operator" means a person or entity that provides cable and video services under a franchise agreement with a municipality pursuant to Section 11-42-11 of the Municipal Code and a holder authorized under Section 21-401 of the Cable and Video Competition Law of 2007 as consistent with Section 21-901 of that Law.

(h) This Section does not apply to any action that was commenced, to any complaint that was filed, or to any audit that was commenced before the effective date of this amendatory Act of the 96th General Assembly. This Section also does not apply to any franchise agreement that was entered into before the effective date of this amendatory Act of the 96th General Assembly unless the franchise agreement contains audit provisions but no specifics regarding audit procedures.

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

(j) If a contingent fee is paid to an auditor, then the payment must be based upon the net difference of the complete audit.

(k) Within 90 days after the effective date of this amendatory Act of the 96th General Assembly, a municipality shall provide to any CATV operator a complete list of addresses within the corporate limits of the municipality and shall

annually update the list.

(l) This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(m) This Section does not apply to any municipality having a population of more than 1,000,000.

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