

1 Representative Currie submitted the following First
2 Conference Committee Report on HOUSE BILL 6012 which was
3 ordered printed and referred to the Committee on Rules:

4 92ND GENERAL ASSEMBLY
5 CONFERENCE COMMITTEE REPORT
6 ON HOUSE BILL 6012

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9 To the President of the Senate and the Speaker of the
10 House of Representatives:

11 We, the conference committee appointed to consider the
12 differences between the houses in relation to Senate
13 Amendment No. 1 to House Bill 6012, recommend the following:

- 14 (1) that the Senate recede from Senate Amendment No. 1;
- 15 (2) that House Bill 6012 be amended by replacing
16 everything after the enacting clause with the following:

17 "Section 5. The Simplified Municipal Telecommunications
18 Tax Act is amended by adding Section 5-42 as follows:

19 (35 ILCS 636/5-42 new)
20 Sec. 5-42. Procedure for determining proper tax
21 jurisdiction.

22 (a) Tax jurisdiction information provided by a
23 municipality upon written request from a telecommunications
24 retailer. For purposes of this subsection (a),
25 "telecommunications retailer" does not include retailers
26 providing Commercial Mobile Radio Service as the term is used
27 in the Mobile Telecommunications Sourcing Act.

28 (1) A municipality may provide, within 30 days
29 following receipt of a written request from a
30 telecommunications retailer, the following:

31 (A) A list containing each street name, known
32 street name aliases, street address number ranges,
33 applicable directionals, and zip codes associated

1 with each street name, for all street addresses
2 located within the municipality. For a range of
3 street address numbers located within a municipality
4 that consists only of odd or even street numbers,
5 the list must specify whether the street numbers in
6 the range are odd or even. The list shall be
7 alphabetical, except that numbered streets shall be
8 in numerical sequence.

9 (B) A list containing each postal zip code and
10 all the city names associated therewith for all zip
11 codes assigned to geographic areas located entirely
12 within the municipality, including zip codes
13 assigned to rural route boxes; and

14 (C) A sequential list containing all rural
15 route box number ranges and the city names and zip
16 codes associated therewith, for all rural route
17 boxes located within the municipality, except that
18 rural route boxes with postal zip codes entirely
19 within the municipality that are included on the
20 list furnished under paragraph (B) need not be
21 duplicated.

22 (D) The lists shall be printed. If a list is
23 available through another medium, however, the
24 municipality shall, upon request, furnish the list
25 through such medium in addition to or in lieu of the
26 printed lists. The municipality shall be responsible
27 for updating the lists as changes occur and for
28 furnishing this information to all
29 telecommunications retailers affected by the
30 changes. Each update shall specify an effective
31 date, which shall be the next ensuing January 1,
32 April 1, July 1, or October 1; shall be furnished to
33 the telecommunications retailer not less than 60
34 days prior to the effective date; and shall identify
35 the additions, deletions, and other changes to the

1 preceding version of the list. If the information is
2 received less than 60 days prior to the effective
3 date of the change, the telecommunications retailer
4 has until the next ensuing January 1, April 1, July
5 1, or October 1 to make the appropriate changes.

6 Nothing in this subsection (a) shall prevent a
7 municipality from providing a telecommunications retailer
8 with the information set forth in this subdivision (a)(1)
9 in the absence of a written request from the
10 telecommunications retailer.

11 (2) The telecommunications retailer shall be
12 responsible for charging the tax to the service addresses
13 contained in the lists requested under subdivision (a)(1)
14 that include all of the elements required by this
15 Section. If a service address is not included in the list
16 or if no list is provided, the telecommunications
17 retailer shall be held harmless from situsing errors
18 provided it uses a reasonable methodology to assign the
19 service address or addresses to a local tax jurisdiction.
20 The telecommunications retailer shall be held harmless
21 for any tax overpayments or underpayments (including
22 penalty or interest) resulting from written information
23 provided by the municipality or, in the case of disputes,
24 the Department. If a municipality is aware of a situsing
25 error in a telecommunications retailer's records, the
26 municipality may file a written notification to the
27 telecommunications retailer at an address specified by
28 the telecommunications retailer describing the street
29 address or addresses that are incorrect and, if known,
30 the affected customer name or names and account number or
31 numbers. If another jurisdiction is claiming the same
32 street address or addresses that are the subject of the
33 notification, the telecommunications retailer must notify
34 the Department as specified in subdivision (a)(3) of this
35 Section, otherwise, the telecommunications retailer shall

1 make such correction to its records within 90 days.

2 (3) If it is determined from the lists or updates
3 furnished under subdivision (a)(1) that more than one
4 municipality claims the same address or group of
5 addresses, the telecommunications retailer shall notify
6 the Department within 60 days of discovering the
7 discrepancy. After notification and until resolution, the
8 telecommunications retailer will continue its prior tax
9 treatment and will be held harmless for any tax, penalty,
10 and interest in the event the prior tax treatment is
11 wrong. Upon resolution, the Department will notify the
12 telecommunications retailer in a written form describing
13 the resolution. Upon receipt of the resolution, the
14 telecommunications retailer has until the next ensuing
15 January 1, April 1, July 1, or October 1 to make the
16 change.

17 (4) Municipalities shall notify any
18 telecommunications retailer that has previously requested
19 a list under subdivision (a)(1) of this Section of any
20 annexations, de-annexations, or other boundary changes at
21 least 60 days after the effective date of such changes.
22 The notification shall contain each street name, known
23 street name aliases, street address number ranges,
24 applicable directionals, and zip codes associated with
25 each street name, for all street addresses for which a
26 change has occurred. The notice shall be mailed to an
27 address designated by the telecommunications retailer.
28 The telecommunications retailer has until the next
29 ensuing January 1, April 1, July 1, or October 1 to make
30 the changes described in such notification.

31 (b) The safe harbor provisions, Sections 40 and 45 of
32 the Mobile Telecommunications Sourcing Conformity Act, shall
33 apply to any telecommunications retailer electing to employ
34 enhanced zip codes (zip+4) to assign each street address,
35 address range, rural route box, or rural route box range in

1 their service area to a specific municipal tax jurisdiction,
2 except as provided under subdivision (c)(5). A
3 telecommunications retailer shall make its election as
4 prescribed by rules adopted by the Department.

5 (c) Persons who believe that they are improperly being
6 charged a tax imposed under this Act because their service
7 address is assigned to the wrong taxing jurisdiction shall
8 file a written complaint with their telecommunications
9 (mobile or non-mobile) retailer. The written complaint shall
10 include the street address for her or his place of primary
11 use for mobile telecommunications service or the service
12 address for non-mobile telecommunications, the name and
13 address of the telecommunications retailer who is collecting
14 the tax imposed by this Act, the account name and number for
15 which the person seeks a correction of the tax assignment, a
16 description of the error asserted by that person, an
17 estimated amount of tax claimed to have been incorrectly
18 paid, the time period for which that amount of tax applies,
19 and any other information that the telecommunications
20 retailer may reasonably require to process the request. For
21 purposes of this Section, the terms "place of primary use"
22 and "mobile telecommunications service" shall have the same
23 meanings as those terms are defined in the Mobile
24 Telecommunications Sourcing Conformity Act.

25 Within 60 days after receiving the complaint under this
26 subsection (c), the telecommunications retailer shall review
27 its records, the written complaint, any information submitted
28 by the affected municipality or municipalities, and the
29 electronic database, if existing, or enhanced zip code used
30 pursuant to Section 25 or 40 of the Mobile Telecommunications
31 Sourcing Conformity Act to determine the customer's taxing
32 jurisdiction. If this review shows that the amount of tax,
33 assignment of place of primary use or service address, or
34 taxing jurisdiction is in error, the telecommunications
35 retailer shall correct the error and refund or credit the

1 amount of tax erroneously collected from the customer for the
2 period still available for the filing of a claim for credit
3 or refund by the telecommunications retailer under this Act.
4 If this review shows that the amount of tax, assignment of
5 place of primary use or service address, or taxing
6 jurisdiction is correct, the telecommunications retailer
7 shall provide a written explanation to the person from whom
8 the notice was received.

9 (1) If the person is dissatisfied with the response
10 from the telecommunications retailer, the customer may
11 request a written determination from the Department on a
12 form prescribed by the Department. The request shall
13 contain the same information as was provided to the
14 telecommunications retailer. The Department shall review
15 the request for determination and make all reasonable
16 efforts to determine if such person's place of primary
17 use for mobile telecommunications service or the service
18 address for non-mobile telecommunications is located
19 within the jurisdictional boundaries of the municipality
20 for which the person is being charged tax under this Act.
21 Upon request by the Department, municipalities that have
22 imposed a tax under this Act shall have 30 days to
23 provide information to the Department regarding such
24 requests for determination via certified mail.

25 (2) Within 90 days after receipt of a request for
26 determination under subdivision (c)(1) of this Section,
27 the Department shall issue a letter of determination to
28 the person stating whether that person's place of primary
29 use for mobile telecommunications service or the service
30 address for non-mobile telecommunications is located
31 within the jurisdictional boundaries of the municipality
32 for which the person is being charged tax under this Act
33 or naming the proper municipality, if different. The
34 Department shall also list in the letter of
35 determination, if the municipality has provided that

1 information to the Department, the Department's findings
2 as to the limit of the jurisdictional boundary (street
3 address range) for the municipality in relation to the
4 street address listed in the request for a letter of
5 determination. A copy of such letter of determination
6 shall be provided by the Department to the
7 telecommunications retailer listed on the request for
8 determination. The copy shall be sent via mail to an
9 address designated by the telecommunications retailer.

10 (3) If the municipality or municipalities fail to
11 respond as set forth in subdivision (c)(1), then the
12 complaining person will no longer be subject to the tax
13 imposed under this Act. The Department shall notify the
14 relevant telecommunications retailer in writing of the
15 automatic determination and also list its findings as to
16 the street address listed in the request for a letter of
17 determination. Upon receipt of the notice of automatic
18 determination, the telecommunications retailer shall
19 correct its records and refund or credit the amount of
20 tax determined to have been paid by such person for the
21 period still available for the filing of a claim for
22 credit or refund by the telecommunications retailer under
23 this Act. A copy of the letter of determination shall be
24 provided by the Department to the telecommunications
25 retailer listed on the request for determination at an
26 address designated by the telecommunications retailer.

27 (4) If the telecommunications retailer receives a
28 copy of the letter of determination from the Department
29 described in subdivision (c)(2) of this Section that
30 states that such person's place of primary use for mobile
31 telecommunications service or the service address for
32 non-mobile telecommunications is not located within the
33 jurisdictional boundaries of the municipality for which
34 that person is being charged tax under this Act and that
35 provides the correct tax jurisdiction for the particular

1 street address, the telecommunications retailer shall
2 correct the error and refund or credit the amount of tax
3 determined to have been paid in error by such person up
4 to the period still available for the filing of a claim
5 for credit or refund by the telecommunications retailer
6 under this Act. The telecommunications retailer shall
7 retain such copy of the letter of determination in its
8 books and records and shall be held harmless for any tax,
9 penalty, or interest due as a result of its reliance on
10 such determination. If the Department subsequently
11 receives information that discloses that such service
12 addresses or places of primary use on that street are
13 within the jurisdictional boundaries of a municipality
14 other than the one specified in the previous letter, the
15 Department shall notify the telecommunications retailer
16 and the telecommunications customer in writing that the
17 telecommunications retailer is to begin collecting tax
18 for a specified municipality on the accounts associated
19 with those service addresses or places of primary use.
20 Notification to begin collecting tax on such accounts
21 sent by the Department to the telecommunications
22 retailers on or after October 1 and prior to January 1
23 shall be effective the following April 1. Notification to
24 begin collecting tax on such accounts sent by the
25 Department to the telecommunications retailers on or
26 after January 1 and prior to April 1 shall be effective
27 the following July 1. Notification to begin collecting
28 tax on such accounts sent by the Department to the
29 telecommunications retailers on or after April 1 and
30 prior to July 1 shall be effective the following October
31 1. Notification to begin collecting tax on such accounts
32 sent by the Department to the telecommunications
33 retailers on or after July 1 and prior to October 1 shall
34 be effective the following January 1.

35 (5) If the telecommunications retailer receives a

1 copy of the letter of determination from the Department
2 described in subdivisions (c)(2), (c)(3), or (c)(4) of
3 this Section that states that such person's place of
4 primary use for mobile telecommunications service or the
5 service address for non-mobile telecommunications is not
6 located within the jurisdictional boundaries of the
7 municipality for which that person is being charged tax
8 under this Act and the telecommunications retailer fails
9 to correct the error and refund or credit the appropriate
10 amount of tax paid in error within the time period
11 prescribed in subdivisions (c)(3) and (c)(4), the
12 telecommunications retailer shall not be held harmless
13 for any tax, penalty, or interest due the Department as a
14 result of the error.

15 (6) The procedures in this subsection (c) shall be
16 the first course of remedy available to customers seeking
17 correction of assignment of service address, place of
18 primary use, taxing jurisdiction, an amount of tax paid
19 erroneously, or other compensation for taxes, charges, or
20 fees erroneously collected by a telecommunications
21 retailer. No cause of action based upon a dispute arising
22 from these taxes, charges, or fees shall accrue until a
23 customer has reasonably exercised the rights and
24 procedures set forth in this subsection (c). If a
25 customer is not satisfied after exercising the rights and
26 following the procedures set forth in this subsection
27 (c), the customer shall have the normal cause of action
28 available under the law to recover any tax, penalty, or
29 interest from the telecommunications retailer.

30 (d) The provisions of this Section shall not apply to a
31 municipality that directly receives collected tax revenue
32 from a retailer pursuant to subsection (b) of Section 5-40. A
33 municipality that receives tax revenue pursuant to subsection
34 (b) of Section 5-40 for telecommunications other than mobile
35 telecommunications service, as that term is defined in the

1 Mobile Telecommunications Sourcing Conformity Act, shall
2 establish a procedure to remedy the complaints of persons who
3 believe they are being improperly taxed, which should
4 consider the requirements set forth in subsection (c) of this
5 Section.

6 Section 10. The Mobile Telecommunications Sourcing
7 Conformity Act is amended by changing Section 80 as follows:

8 (35 ILCS 638/80)

9 (This Section may contain text from a Public Act with a
10 delayed effective date)

11 Sec. 80. Customers' procedures and remedies for
12 correcting taxes and fees.

13 (a) If a customer believes that he or she is being
14 charged an improper amount of tax or is not subject to a tax
15 imposed under the Simplified Municipal Telecommunications Tax
16 Act for a telecommunications service covered by the term
17 "mobile telecommunications" under this Act, he or she shall
18 follow the procedures outlined in subsection (c) of Section
19 5-42 of the Simplified Municipal Telecommunications Tax Act.
20 The procedures outlined in subsection (c) of Section 5-42 of
21 the Simplified Municipal Telecommunications Tax Act shall
22 also apply to the home service provider, the Department, and
23 municipalities.

24 (b) Nothing in subsection (a) shall apply to a
25 municipality that directly receives collected tax revenue
26 from a retailer under subsection (b) of Section 5-40 of the
27 Simplified Municipal Telecommunications Tax Act for a
28 telecommunications service covered by the term "mobile
29 telecommunications service" under this Act. In lieu of
30 subsection (a), a customer may seek relief under subsection
31 (c) only if a municipality directly receives collected tax
32 revenue from a retailer under subsection (b) of Section 5-40
33 of the Simplified Municipal Telecommunications Tax Act for a

1 telecommunications service covered by the term "mobile
2 telecommunications service" under this Act.

3 (c) For municipalities covered under subsection (b) of
4 Section 5-40 of the Simplified Municipal Telecommunications
5 Tax Act, if a customer believes that an amount of tax or
6 assignment of place of primary use or taxing jurisdiction
7 included on a billing is erroneous, the customer shall notify
8 the home service provider in writing. The customer shall
9 include in this written notification the street address for
10 her or his place of primary use, the account name and number
11 for which the customer seeks a correction of the tax
12 assignment, a description of the error asserted by the
13 customer, and any other information that the home service
14 provider reasonably requires to process the request. Within
15 60 days after receiving a notice under this subsection (c)
16 (a), the home service provider shall review its records and
17 the electronic database or enhanced zip code used pursuant to
18 Section 25 or 40 to determine the customer's taxing
19 jurisdiction. If this review shows that the amount of tax,
20 assignment of place of primary use, or taxing jurisdiction is
21 in error, the home service provider shall correct the error
22 and refund or credit the amount of tax erroneously collected
23 from the customer for a period of up to 2 years. If this
24 review shows that the amount of tax, assignment of place of
25 primary use, or taxing jurisdiction is correct, the home
26 service provider shall provide a written explanation to the
27 customer. (b) If the customer is dissatisfied with the
28 response of the home service provider under this Section, the
29 customer may seek a correction or refund or both from the
30 municipality that directly receives collected tax revenue
31 from a retailer pursuant to subsection (b) of Section 5-40 of
32 the Simplified Municipal Telecommunications Tax Act for a
33 telecommunications service covered by the term "mobile
34 telecommunications service" under this Act taxing
35 jurisdiction-affected.

1 (d) (e) The procedures set forth in subsections (b) and
 2 (c) in--this--Section shall be the first course of remedy
 3 available to customers seeking correction of assignment of
 4 place of primary use or taxing jurisdiction or a refund of or
 5 other compensation for taxes, charges, and fees erroneously
 6 collected by the home service provider, and no cause of
 7 action based upon a dispute arising from these taxes,
 8 charges, or fees shall accrue until a customer has reasonably
 9 exercised the rights and procedures set forth in this
 10 Section.

11 (Source: P.A. 92-474, eff. 8-1-02.)

12 Section 90. The State Mandates Act is amended by adding
 13 Section 8.26 as follows:

14 (30 ILCS 805/8.26 new)

15 Sec. 8.26. Exempt mandate. Notwithstanding Sections 6
 16 and 8 of this Act, no reimbursement by the State is required
 17 for the implementation of any mandate created by this
 18 amendatory Act of the 92nd General Assembly.

19 Section 95. No acceleration or delay. Where this Act
 20 makes changes in a statute that is represented in this Act by
 21 text that is not yet or no longer in effect (for example, a
 22 Section represented by multiple versions), the use of that
 23 text does not accelerate or delay the taking effect of (i)
 24 the changes made by this Act or (ii) provisions derived from
 25 any other Public Act.

26 Section 99. Effective date. This Act takes effect on
 27 July 1, 2002."

1 Submitted on _____, 2002.

2 _____
3 Senator Donahue Representative Curry

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5 Senator Peterson Representative J. Lyons

6 _____
7 Senator Burzynski Representative Currie

8 _____
9 Senator Jacobs Representative Tenhouse

10 _____
11 Senator Obama Representative B. Mitchell
12 Committee for the Senate Committee for the House