

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 The taxes imposed under this subparagraph 3 shall
5 not be in addition to the tax authorized by subsection
6 (c-5), but rather shall be an alternative method to
7 impose the tax.

8 4. Persons engaged in the business of distributing,
9 supplying, furnishing, or selling water for use or
10 consumption within the corporate limits of the
11 municipality, and not for resale, at a rate not to exceed
12 5% of the gross receipts therefrom.

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

34 Any of the taxes enumerated in this Section may be in

1 addition to the payment of money, or value of products or
2 services furnished to the municipality by the taxpayer as
3 compensation for the use of its streets, alleys, or other
4 public places, or installation and maintenance therein,
5 thereon or thereunder of poles, wires, pipes or other
6 equipment used in the operation of the taxpayer's business.

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

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

1 shall be required to rebate, refund, or issue credits for any
2 tax imposed or charge collected from customers pursuant to
3 the municipality's interpretation prior to October 19, 1979.
4 This paragraph reflects a legislative finding that it would
5 be contrary to the public interest to require a municipality
6 or its taxpayers to refund taxes or charges attributable to
7 the municipality's more inclusive interpretation of gross
8 receipts prior to October 19, 1979, and is not intended to
9 prescribe or limit judicial construction of this Section. The
10 legislative finding set forth in this subsection does not
11 apply to taxes imposed after the effective date of this
12 amendatory Act of 1995.

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

1 the municipality. Persons delivering electricity shall also
2 be authorized to add to such gross charge an amount equal to
3 3% of the tax to reimburse the person delivering electricity
4 for the expenses incurred in keeping records, billing
5 customers, preparing and filing returns, remitting the tax
6 and supplying data to the municipality upon request. If the
7 person delivering electricity fails to collect the tax from
8 the purchaser, then the purchaser shall be required to pay
9 the tax directly to the municipality in the manner prescribed
10 by the municipality. Persons delivering electricity who file
11 returns pursuant to this paragraph (c) shall, at the time of
12 filing such return, pay the municipality the amount of the
13 tax collected pursuant to subparagraph 3.

14 (c-5) A municipality having a population of less than
15 500,000 may, by ordinance, allow a purchaser for
16 non-residential electrical use (i) to elect to register with
17 the municipality as a self-assessing purchaser in relation to
18 payment of the tax imposed by subparagraph 3, on the
19 privilege of using or consuming electricity, and (ii) to pay
20 the tax imposed by subparagraph 3 directly to the
21 municipality on the basis of the uniform percentage of the
22 gross purchase price of electricity purchased at retail and
23 used in the municipality rather than paying the tax to the
24 purchaser's delivering supplier. The maximum rate of tax for
25 a self-assessing purchaser may not exceed 5% and the minimum
26 rate of tax shall be no less than and, until December 31,
27 2008, the maximum rate of tax shall be no more than, the rate
28 the municipality applied in the last full calendar year prior
29 to the effective date of Section 65 of Public Act 90-561
30 (August 1, 1998) based on the purchase price of the
31 electricity purchased at retail and used in the community as
32 calculated on a monthly basis for each purchaser. The
33 municipality shall establish by ordinance the requirements
34 for (i) the voluntary election, registration, and termination

1 of a self-assessing purchaser, (ii) direct return and payment
2 of the taxes to the municipality by a self-assessing
3 purchaser, and (iii) the rate of tax applied, which shall be
4 the percent of the gross purchase price as provided in this
5 subsection up to but not exceeding 5%. The taxes imposed
6 under this subsection (c-5) shall not be in addition to the
7 tax authorized by subparagraph 3, but rather shall be an
8 alternative method to impose the tax.

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

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

1 telecommunications retailers under the Telecommunications
2 Municipal Infrastructure Maintenance Fee Act.

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

29 For purposes of this Section "gross receipts" shall not
30 include (i) amounts added to customers' bills under Section
31 9-221 of the Public Utilities Act, or (ii) charges added to
32 customers' bills to recover the surcharge imposed under the
33 Emergency Telephone System Act. This paragraph is not
34 intended to nor does it make any change in the meaning of

1 "gross receipts" for the purposes of this Section, but is
2 intended to remove possible ambiguities, thereby confirming
3 the existing meaning of "gross receipts" prior to the
4 effective date of this amendatory Act of 1995.

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

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

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

1 qualified to do business in this State.

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

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

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

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

33 (e) Any municipality that imposes taxes upon public
34 utilities or upon the privilege of using or consuming

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

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

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

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

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

34 Upon certification of the business enterprise by the

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

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

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

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

1 (Source: P.A. 90-16, eff. 6-16-97; 90-561, eff. 8-1-98;
2 90-562, eff. 12-16-97; 90-655, eff. 7-30-98; 91-870, eff.
3 6-22-00.)

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