

AN ACT concerning local government.

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

Section 5. The Local Government Taxpayers' Bill of Rights Act is amended by changing Section 30 as follows:

(50 ILCS 45/30)

Sec. 30. Statute of limitations. Units of local government have an obligation to review tax returns in a timely manner and issue any determination of tax due as promptly as possible so that taxpayers may make timely corrections of future returns and minimize any interest charges applied to tax underpayments. Each unit of local government must provide appropriate statutes of limitation for the determination and assessment of taxes covered by this Act, provided, however, that a statute of limitations may not exceed the following:

(1) No notice of determination of tax due or assessment may be issued more than 5 ~~4~~ years after the end of the calendar year for which the return for the period was filed or the end of the calendar year in which the return for the period was due, whichever occurs later. An audit or review that is timely performed under Section 35 of this Act or Section 8-11-2.5 of the Illinois Municipal Code shall toll the applicable 5-year period for a period

of not more than 1 year.

(2) If any tax return was not filed or if during any 4-year period for which a notice of tax determination or assessment may be issued by the unit of local government the tax paid or remitted was less than 75% of the tax due for that period, the statute of limitations shall be no more than 6 years after the end of the calendar year in which the return for the period was due or the end of the calendar year in which the return for the period was filed, whichever occurs later. In the event that a unit of local government fails to provide a statute of limitations, the maximum statutory period provided in this Section applies.

(3) The changes to this Section made by this amendatory Act of the 102nd General Assembly do not revive any determination and assessment of tax due where the statute of limitations has expired as of the effective date of this amendatory Act of the 102nd General Assembly, but the changes do extend the statute of limitations for the determination and assessment of taxes where the statute of limitation has not expired as of the effective date of this amendatory Act of the 102nd General Assembly.

This Section does not place any limitation on a unit of local government if a fraudulent tax return is filed.

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

Section 10. The Illinois Municipal Code is amended by changing Section 8-11-2.5 as follows:

(65 ILCS 5/8-11-2.5)

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, which may act through its designated auditor or agent, 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 Section 8-11-2 of 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, make a written request via e-mail to an e-mail address provided by the utility for 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

premises-specific and other information database used by the public utility to determine the amount of tax due to the municipality, for a time period that includes the year in which the request is made and not more than 6 years immediately preceding that year, as appropriate for the period being audited, and which shall include for each customer premises in the municipality: (i) the premises address and zip code; (ii) the classification of the premises as designated by the public utility, such as residential, commercial, or industrial; (iii) monthly usage information sufficient to calculate taxes due, in therms, kilowatts, minutes, or other such other unit of measurement used to calculate the taxes; (iv) the taxes actually assessed, collected, and remitted to the municipality; (v) the first date of service for the premises, if that date occurred within the period being audited; and (vi) any tax exemption claimed for the premises and any additional information that supports a specific tax exemption, if the municipality requests that information, including the customer name and other relevant data; however, a public utility that is an electric utility may not provide other customer-specific information 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) the premises address for customer accounts that the public utility's records indicate are: (i) in a bordering municipality, township, or unincorporated area (other than the City of Chicago), provided that the municipality provides the public utility a list of such bordering jurisdictions; or (ii) in any zip code with boundaries that include or are adjacent to the requesting municipality provided that the municipality provides the public utility a list of those zip codes; this item (ii) applies to requests made on or after September 1, 2022. If any such customer is determined by the municipality and the utility to be located within the requesting municipality, then the public utility shall provide the additional information provided in paragraph (1) of this subsection (b). ~~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.~~

Following the municipality's receipt of the information provided by the public utility pursuant to paragraphs (1) or (2) of this subsection (b), if a question or issue arises that can only be addressed by accessing customer-specific or additional information not described in this Section, then the utility shall attempt to resolve the question or issue without disclosing any customer-specific information. If this process does not resolve the question or issue, then either the municipality or public utility can further pursue the matter before the Department of Revenue, which has the discretion to receive or share customer-specific information with the municipality as appropriate subject to confidentiality restrictions.

(c) Each public utility must provide the information requested under subsection (b) within 45 days after the date of the request.⁺

~~(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) The public utility shall be liable to the municipality for unpaid taxes, including taxes that the public utility failed to properly bill to the customer subject to subsection paragraph (2) of subsection (e-10) of this Section. This subsection (e) does not limit a utility's right to an offsetting credit it would otherwise be entitled to, including that authorized by subsection (c) of Section 8-11-2 of the Code. To the extent that a public utility's errors in past tax collections and payments relate to premises located in an area of the municipality that was annexed on or after the effective date of this amendatory Act of the 102nd General Assembly, however, the public utility shall only be liable for such errors beginning 60 days after the date that the municipality provided the public utility notice of the annexation, provided that the public utility provides municipalities with an email address to send annexation notices. A copy of the annexation ordinance and the map filed with the County Clerk sent to the email address provided by the public utility shall be deemed sufficient notice, but other forms of notice may also be sufficient ~~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.~~

(e-5) Upon mutual agreement, a utility and municipality may use a web portal in lieu of email to receive notice of annexations and boundary changes. After December 31, 2025 for a gas public utility that serves more than 2,000,000 customers in Illinois and after December 31, 2022 for all other public utilities that serve more than 1,000,000 retail customers in Illinois, the public utilities shall provide a secure web portal for municipalities to use, and, thereafter, the web portals shall be used by all municipalities to notify the public utilities of annexations. The web portal must provide the municipality with an electronic record of all communications and attached documents that the municipality has submitted through the portal.

(e-10) (1) No later than August 1, 2023, the Department of Revenue shall develop and publish a written process to be used by each public utility and each municipality that imposes a tax under Section 8-11-2 of the Code, which may act through its designated auditor or agent, under which:

(A) by December 31, 2024, and on a regular schedule thereafter to occur approximately every 5 years, each public utility shall work collaboratively with each municipality to develop and file with the Department of Revenue, a master list of all premises addresses in the municipality (including premises addresses with inactive accounts) that are subject to such tax and all accounts in the municipality that are exempt from such tax, provided that the final date for the first master list shall be extended, at the utility's request, to no later than December 31, 2026;

(B) information is provided to the municipality to facilitate development of the master list including information described in paragraph (1) of subsection (b) of this Section regarding all accounts (including premises addresses with inactive accounts) that the public utility's records show are in the municipality and the premises addresses in (i) any bordering municipality, (ii) any bordering township, or (iii) any zip code that is in any part in the municipality or that borders the municipality;

(C) any dispute between the public utility and the municipality related to the master list will be resolved;

(D) on a semi-annual basis following the development of the master list, each public utility shall provide to each municipality certain information that the municipality can use to nominate changes to the master list, including, but not limited to: (i) a list of any tax-related changes, such as the addition or removal of an exemption, or to the taxing jurisdiction, to any account on the master list; and (ii) new premises addresses within the municipality, any bordering municipality, in any bordering township, or in any zip code that is in any part in the municipality or that borders the municipality;

(E) accounts nominated by the municipality to be added or deleted from the master list may be submitted to the public utility and related disputes will be resolved;

(F) changes may be made to the master list; and

(G) the utility may file a master list based solely on its records if the municipality fails to participate and such a municipality may request to restart the process prior to the end of the five-year cycle.

(2) No public utility is liable for any error in tax

collections or payments due more than 60 days after the date that the first master list for the relevant municipality is filed with the Department of Revenue unless such error in tax collection or payment:

(A) was related to a premises address on the master list at the time of the error;

(B) was related to an area of the municipality annexed on or after the effective date of this amendatory Act of the 102nd General Assembly, notice of which was properly provided to the public utility pursuant to the procedures set forth in subsection (e); or

(C) resulted from the public utility's failure to comply with the process established in this subsection (e-10).

(3) If the public utility uses a portal as set forth in subsection (e-5), all lists, changes affecting tax collection and remission, proposed corrections, and reports shall be provided through such portal.

(e-15) If a customer paid a tax to a municipality that the customer did not owe or was in excess of the tax the customer owed, then the customer may, to the extent allowed by Section 9-252 of the Public Utilities Act, recover the tax or over payment 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.

(e-20) (1) The Department of Revenue shall have the authority to resolve a claim by a municipality that a public utility materially failed to comply with the requirements of subsections (b) or (c) of this Section or the process developed under subsection (e-10) of this Section. If the Department of Revenue finds, after notice and hearing, that a public utility (i) caused a material delay in providing information properly requested under such subsections or (ii) omitted a material portion of information properly requested, then the Department shall assess a penalty on the utility of up to \$50,000 per audit, or up to \$10,000 per audit for a utility that served less than 100,000 retail customers on the date of the audit notice, or, if the claim relates to subsection (e-10), up to \$50,000 per 5-year master list cycle or up to \$10,000 per cycle for a utility that served less than 100,000 retail customers on the date such master list was filed with the Department, which penalty shall be paid by the public utility to the Department of Revenue for deposit into the Supplemental Low-Income Energy Assistance Fund. Notwithstanding anything to the contrary, a penalty assessed pursuant to this subsection shall be the exclusive remedy for the conduct that is the subject of the claim. A penalty assessed under this subsection shall bar and prohibit pursuit of any other penalty, fine, or recovery related to the conduct for which the penalty was assessed.

(2) No penalty shall be assessed by the Department pursuant to this subsection if the Department finds that a delay or omission was immaterial or de minimis.

(3) Any penalties or fines paid by a public utility pursuant to this subsection shall not be recoverable through the utility's rates.

(4) If a municipality and public utility have a disagreement regarding the scope or conduct of an audit undertaken pursuant to this Section, they shall work together in good faith to attempt to resolve the dispute. If, after a period of no less than 14 days, the municipality and public utility are not able to reach an agreement regarding the dispute, either entity, or both entities jointly, may submit a request to the Illinois Department of Revenue seeking resolution of the dispute, and the Department shall have the authority to resolve the issue, and shall resolve such dispute within 60 days. Each such request must include a statement showing that consultation and reasonable attempts to resolve the dispute have failed.

The time period established pursuant to this Section for complying with requests for information under this Section shall be suspended during the dispute resolution processes set forth in this paragraph (4) of subsection (e-20), but only for the issue or issues that are the subject of the dispute. Information requests that are undisputed shall continue to be subject to the time periods for compliance set forth in this

Section.

(f) All account specific and premises-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.

(i) The changes to subsection (e) and paragraph (2) of subsection (e-10) of this Section made by this amendatory Act of the 102nd General Assembly apply to taxes due on or after August 1, 2022. The remaining changes to this Section made by this amendatory Act of the 102nd General Assembly apply on or after the effective date of this amendatory Act of the 102nd General Assembly.

(j) As used in this Section:

"Customer-specific information" means the name, phone number, email address, and banking information of a customer.

"Customer-specific information" includes the load-shape data associated with a customer account. "Customer-specific

information" does not include the tax-exempt status of the premises and the name of tax exempt customers.

"Premises-specific information" means any information, including billing and usage data, associated with a premises address that is not customer-specific information.

"Premises address" includes the jurisdiction to which the address is currently coded by the public utility for municipal tax purposes.

(Source: P.A. 96-1422, eff. 8-3-10.)

Section 15. The Public Utilities Act is amended by changing Section 16-122 as follows:

(220 ILCS 5/16-122)

Sec. 16-122. Customer information.

(a) Upon the request of a retail customer, or a person who presents verifiable authorization and is acting as the customer's agent, and payment of a reasonable fee, electric utilities shall provide to the customer or its authorized agent the customer's billing and usage data.

(b) Upon request from any alternative retail electric supplier and payment of a reasonable fee, an electric utility serving retail customers in its service area shall make available generic information concerning the usage, load shape curve or other general characteristics of customers by rate classification. Provided however, no customer specific

billing, usage or load shape data shall be provided under this subsection unless authorization to provide such information is provided by the customer pursuant to subsection (a) of this Section.

(c) Upon request from a unit of local government and payment of a reasonable fee, an electric utility shall make available information concerning the usage, load shape curves, and other characteristics of customers by customer classification and location within the boundaries of the unit of local government, however, no customer specific billing, usage, or load shape data shall be provided under this subsection unless authorization to provide that information is provided by the customer. This subsection (c) does not prohibit an electric utility from providing a unit of local government or its designated auditor the materials delineated in Section 8-11-2.5 of the Illinois Municipal Code for the purposes of an audit under that Section.

(d) All such customer information shall be made available in a timely fashion in an electronic format, if available.

(Source: P.A. 92-585, eff. 6-26-02.)

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