



Rep. Gary Hannig

Filed: 5/2/2006

09400SB0230ham002

LRB094 07772 BDD 58725 a

1 AMENDMENT TO SENATE BILL 230

2 AMENDMENT NO. _____. Amend Senate Bill 230, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "ARTICLE 1. SHORT TITLE; PURPOSE

6 Section 1-1. Short title. This Act may be cited as the
7 FY2007 Budget Implementation (Revenue) Act.

8 Section 1-3. Purpose. The purpose of this Act is to make
9 changes in State programs that are necessary to implement the
10 Governor's FY2007 budget recommendations concerning revenue.

11 ARTICLE 5. AMENDATORY PROVISIONS

12 Section 5-5. The Illinois Income Tax Act is amended by
13 changing Sections 905 and 911 as follows:

14 (35 ILCS 5/905) (from Ch. 120, par. 9-905)

15 Sec. 905. Limitations on Notices of Deficiency.

16 (a) In general. Except as otherwise provided in this Act:

17 (1) A notice of deficiency shall be issued not later
18 than 3 years after the date the return was filed, and

19 (2) No deficiency shall be assessed or collected with
20 respect to the year for which the return was filed unless

1 such notice is issued within such period.

2 (b) Substantial omission of items.

3 (1) Omission of more than 25% of income. If the
4 taxpayer omits from base income an amount properly
5 includible therein which is in excess of 25% of the amount
6 of base income stated in the return, a notice of deficiency
7 may be issued not later than 6 years after the return was
8 filed. For purposes of this paragraph, there shall not be
9 taken into account any amount which is omitted in the
10 return if such amount is disclosed in the return, or in a
11 statement attached to the return, in a manner adequate to
12 apprise the Department of the nature and the amount of such
13 item.

14 (2) Reportable transactions. If a taxpayer fails to
15 include on any return or statement for any taxable year any
16 information with respect to a reportable transaction, as
17 required under Section 501(b) of this Act, a notice of
18 deficiency may be issued not later than 6 years after the
19 return is filed with respect to the taxable year in which
20 the taxpayer participated in the reportable transaction
21 and said deficiency is limited to the non-disclosed item.

22 (c) No return or fraudulent return. If no return is filed
23 or a false and fraudulent return is filed with intent to evade
24 the tax imposed by this Act, a notice of deficiency may be
25 issued at any time.

26 (d) Failure to report federal change. If a taxpayer fails
27 to notify the Department in any case where notification is
28 required by Section 304(c) or 506(b), or fails to report a
29 change or correction which is treated in the same manner as if
30 it were a deficiency for federal income tax purposes, a notice
31 of deficiency may be issued (i) at any time or (ii) on or after
32 August 13, 1999, at any time for the taxable year for which the
33 notification is required or for any taxable year to which the
34 taxpayer may carry an Article 2 credit, or a Section 207 loss,

1 earned, incurred, or used in the year for which the
2 notification is required; provided, however, that the amount of
3 any proposed assessment set forth in the notice shall be
4 limited to the amount of any deficiency resulting under this
5 Act from the recomputation of the taxpayer's net income,
6 Article 2 credits, or Section 207 loss earned, incurred, or
7 used in the taxable year for which the notification is required
8 after giving effect to the item or items required to be
9 reported.

10 (e) Report of federal change.

11 (1) Before August 13, 1999, in any case where
12 notification of an alteration is given as required by
13 Section 506(b), a notice of deficiency may be issued at any
14 time within 2 years after the date such notification is
15 given, provided, however, that the amount of any proposed
16 assessment set forth in such notice shall be limited to the
17 amount of any deficiency resulting under this Act from
18 recomputation of the taxpayer's net income, net loss, or
19 Article 2 credits for the taxable year after giving effect
20 to the item or items reflected in the reported alteration.

21 (2) On and after August 13, 1999, in any case where
22 notification of an alteration is given as required by
23 Section 506(b), a notice of deficiency may be issued at any
24 time within 2 years after the date such notification is
25 given for the taxable year for which the notification is
26 given or for any taxable year to which the taxpayer may
27 carry an Article 2 credit, or a Section 207 loss, earned,
28 incurred, or used in the year for which the notification is
29 given, provided, however, that the amount of any proposed
30 assessment set forth in such notice shall be limited to the
31 amount of any deficiency resulting under this Act from
32 recomputation of the taxpayer's net income, Article 2
33 credits, or Section 207 loss earned, incurred, or used in
34 the taxable year for which the notification is given after

1 giving effect to the item or items reflected in the
2 reported alteration.

3 (f) Extension by agreement. Where, before the expiration of
4 the time prescribed in this Section for the issuance of a
5 notice of deficiency, both the Department and the taxpayer
6 shall have consented in writing to its issuance after such
7 time, such notice may be issued at any time prior to the
8 expiration of the period agreed upon. In the case of a taxpayer
9 who is a partnership, Subchapter S corporation, or trust and
10 who enters into an agreement with the Department pursuant to
11 this subsection on or after January 1, 2003, a notice of
12 deficiency may be issued to the partners, shareholders, or
13 beneficiaries of the taxpayer at any time prior to the
14 expiration of the period agreed upon. Any proposed assessment
15 set forth in the notice, however, shall be limited to the
16 amount of any deficiency resulting under this Act from
17 recomputation of items of income, deduction, credits, or other
18 amounts of the taxpayer that are taken into account by the
19 partner, shareholder, or beneficiary in computing its
20 liability under this Act. The period so agreed upon may be
21 extended by subsequent agreements in writing made before the
22 expiration of the period previously agreed upon.

23 (g) Erroneous refunds. In any case in which there has been
24 an erroneous refund of tax payable under this Act, a notice of
25 deficiency may be issued at any time within 2 years from the
26 making of such refund, or within 5 years from the making of
27 such refund if it appears that any part of the refund was
28 induced by fraud or the misrepresentation of a material fact,
29 provided, however, that the amount of any proposed assessment
30 set forth in such notice shall be limited to the amount of such
31 erroneous refund.

32 Beginning July 1, 1993, in any case in which there has been
33 a refund of tax payable under this Act attributable to a net
34 loss carryback as provided for in Section 207, and that refund

1 is subsequently determined to be an erroneous refund due to a
2 reduction in the amount of the net loss which was originally
3 carried back, a notice of deficiency for the erroneous refund
4 amount may be issued at any time during the same time period in
5 which a notice of deficiency can be issued on the loss year
6 creating the carryback amount and subsequent erroneous refund.
7 The amount of any proposed assessment set forth in the notice
8 shall be limited to the amount of such erroneous refund.

9 (h) Time return deemed filed. For purposes of this Section
10 a tax return filed before the last day prescribed by law
11 (including any extension thereof) shall be deemed to have been
12 filed on such last day.

13 (i) Request for prompt determination of liability. For
14 purposes of subsection (a)(1), in the case of a tax return
15 required under this Act in respect of a decedent, or by his
16 estate during the period of administration, or by a
17 corporation, the period referred to in such Subsection shall be
18 18 months after a written request for prompt determination of
19 liability is filed with the Department (at such time and in
20 such form and manner as the Department shall by regulations
21 prescribe) by the executor, administrator, or other fiduciary
22 representing the estate of such decedent, or by such
23 corporation, but not more than 3 years after the date the
24 return was filed. This subsection shall not apply in the case
25 of a corporation unless:

26 (1) (A) such written request notifies the Department
27 that the corporation contemplates dissolution at or before
28 the expiration of such 18-month period, (B) the dissolution
29 is begun in good faith before the expiration of such
30 18-month period, and (C) the dissolution is completed;

31 (2) (A) such written request notifies the Department
32 that a dissolution has in good faith been begun, and (B)
33 the dissolution is completed; or

34 (3) a dissolution has been completed at the time such

1 written request is made.

2 (j) Withholding tax. In the case of returns required under
3 Article 7 of this Act (with respect to any amounts withheld as
4 tax or any amounts required to have been withheld as tax) a
5 notice of deficiency shall be issued not later than 3 years
6 after the 15th day of the 4th month following the close of the
7 calendar year in which such withholding was required.

8 (k) Penalties for failure to make information reports. A
9 notice of deficiency for the penalties provided by Subsection
10 1405.1(c) of this Act may not be issued more than 3 years after
11 the due date of the reports with respect to which the penalties
12 are asserted.

13 (l) Penalty for failure to file withholding returns. A
14 notice of deficiency for penalties provided by Section 1004 of
15 this Act for taxpayer's failure to file withholding returns may
16 not be issued more than three years after the 15th day of the
17 4th month following the close of the calendar year in which the
18 withholding giving rise to taxpayer's obligation to file those
19 returns occurred.

20 (m) Transferee liability. A notice of deficiency may be
21 issued to a transferee relative to a liability asserted under
22 Section 1405 during time periods defined as follows:

23 1) Initial Transferee. In the case of the liability of
24 an initial transferee, up to 2 years after the expiration
25 of the period of limitation for assessment against the
26 transferor, except that if a court proceeding for review of
27 the assessment against the transferor has begun, then up to
28 2 years after the return of the certified copy of the
29 judgment in the court proceeding.

30 2) Transferee of Transferee. In the case of the
31 liability of a transferee, up to 2 years after the
32 expiration of the period of limitation for assessment
33 against the preceding transferee, but not more than 3 years
34 after the expiration of the period of limitation for

1 assessment against the initial transferor; except that if,
2 before the expiration of the period of limitation for the
3 assessment of the liability of the transferee, a court
4 proceeding for the collection of the tax or liability in
5 respect thereof has been begun against the initial
6 transferor or the last preceding transferee, as the case
7 may be, then the period of limitation for assessment of the
8 liability of the transferee shall expire 2 years after the
9 return of the certified copy of the judgment in the court
10 proceeding.

11 (n) Notice of decrease in net loss. On and after August 23,
12 2002 ~~the effective date of this amendatory Act of the 92nd~~
13 ~~General Assembly,~~ no notice of deficiency shall be issued as
14 the result of a decrease determined by the Department in the
15 net loss incurred by a taxpayer in any taxable year ending
16 prior to December 31, 2002 under Section 207 of this Act unless
17 the Department has notified the taxpayer of the proposed
18 decrease within 3 years after the return reporting the loss was
19 filed or within one year after an amended return reporting an
20 increase in the loss was filed, provided that in the case of an
21 amended return, a decrease proposed by the Department more than
22 3 years after the original return was filed may not exceed the
23 increase claimed by the taxpayer on the original return.

24 (Source: P.A. 92-846, eff. 8-23-02; 93-840, eff. 7-30-04.)

25 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

26 Sec. 911. Limitations on Claims for Refund.

27 (a) In general. Except as otherwise provided in this Act:

28 (1) A claim for refund shall be filed not later than 3
29 years after the date the return was filed (in the case of
30 returns required under Article 7 of this Act respecting any
31 amounts withheld as tax, not later than 3 years after the
32 15th day of the 4th month following the close of the
33 calendar year in which such withholding was made), or one

1 year after the date the tax was paid, whichever is the
2 later; and

3 (2) No credit or refund shall be allowed or made with
4 respect to the year for which the claim was filed unless
5 such claim is filed within such period.

6 (b) Federal changes.

7 (1) In general. In any case where notification of an
8 alteration is required by Section 506(b), a claim for
9 refund may be filed within 2 years after the date on which
10 such notification was due (regardless of whether such
11 notice was given), but the amount recoverable pursuant to a
12 claim filed under this Section shall be limited to the
13 amount of any overpayment resulting under this Act from
14 recomputation of the taxpayer's net income, net loss, or
15 Article 2 credits for the taxable year after giving effect
16 to the item or items reflected in the alteration required
17 to be reported.

18 (2) Tentative carryback adjustments paid before
19 January 1, 1974. If, as the result of the payment before
20 January 1, 1974 of a federal tentative carryback
21 adjustment, a notification of an alteration is required
22 under Section 506(b), a claim for refund may be filed at
23 any time before January 1, 1976, but the amount recoverable
24 pursuant to a claim filed under this Section shall be
25 limited to the amount of any overpayment resulting under
26 this Act from recomputation of the taxpayer's base income
27 for the taxable year after giving effect to the federal
28 alteration resulting from the tentative carryback
29 adjustment irrespective of any limitation imposed in
30 paragraph (1) of this subsection.

31 (c) Extension by agreement. Where, before the expiration of
32 the time prescribed in this section for the filing of a claim
33 for refund, both the Department and the claimant shall have
34 consented in writing to its filing after such time, such claim

1 may be filed at any time prior to the expiration of the period
2 agreed upon. The period so agreed upon may be extended by
3 subsequent agreements in writing made before the expiration of
4 the period previously agreed upon. In the case of a taxpayer
5 who is a partnership, Subchapter S corporation, or trust and
6 who enters into an agreement with the Department pursuant to
7 this subsection on or after January 1, 2003, a claim for refund
8 may be issued to the partners, shareholders, or beneficiaries
9 of the taxpayer at any time prior to the expiration of the
10 period agreed upon. Any refund allowed pursuant to the claim,
11 however, shall be limited to the amount of any overpayment of
12 tax due under this Act that results from recomputation of items
13 of income, deduction, credits, or other amounts of the taxpayer
14 that are taken into account by the partner, shareholder, or
15 beneficiary in computing its liability under this Act.

16 (d) Limit on amount of credit or refund.

17 (1) Limit where claim filed within 3-year period. If
18 the claim was filed by the claimant during the 3-year
19 period prescribed in subsection (a), the amount of the
20 credit or refund shall not exceed the portion of the tax
21 paid within the period, immediately preceding the filing of
22 the claim, equal to 3 years plus the period of any
23 extension of time for filing the return.

24 (2) Limit where claim not filed within 3-year period.
25 If the claim was not filed within such 3-year period, the
26 amount of the credit or refund shall not exceed the portion
27 of the tax paid during the one year immediately preceding
28 the filing of the claim.

29 (e) Time return deemed filed. For purposes of this section
30 a tax return filed before the last day prescribed by law for
31 the filing of such return (including any extensions thereof)
32 shall be deemed to have been filed on such last day.

33 (f) No claim for refund based on the taxpayer's taking a
34 credit for estimated tax payments as provided by Section

1 601(b)(2) or for any amount paid by a taxpayer pursuant to
2 Section 602(a) or for any amount of credit for tax withheld
3 pursuant to Section 701 may be filed more than 3 years after
4 the due date, as provided by Section 505, of the return which
5 was required to be filed relative to the taxable year for which
6 the payments were made or for which the tax was withheld. The
7 changes in this subsection (f) made by this amendatory Act of
8 1987 shall apply to all taxable years ending on or after
9 December 31, 1969.

10 (g) Special Period of Limitation with Respect to Net Loss
11 Carrybacks. If the claim for refund relates to an overpayment
12 attributable to a net loss carryback as provided by Section
13 207, in lieu of the 3 year period of limitation prescribed in
14 subsection (a), the period shall be that period which ends 3
15 years after the time prescribed by law for filing the return
16 (including extensions thereof) for the taxable year of the net
17 loss which results in such carryback (or, on and after August
18 13, 1999, with respect to a change in the carryover of an
19 Article 2 credit to a taxable year resulting from the carryback
20 of a Section 207 loss incurred in a taxable year beginning on
21 or after January 1, 2000, the period shall be that period that
22 ends 3 years after the time prescribed by law for filing the
23 return (including extensions of that time) for that subsequent
24 taxable year), or the period prescribed in subsection (c) in
25 respect of such taxable year, whichever expires later. In the
26 case of such a claim, the amount of the refund may exceed the
27 portion of the tax paid within the period provided in
28 subsection (d) to the extent of the amount of the overpayment
29 attributable to such carryback. On and after August 13, 1999,
30 if the claim for refund relates to an overpayment attributable
31 to the carryover of an Article 2 credit, or of a Section 207
32 loss, earned, incurred (in a taxable year beginning on or after
33 January 1, 2000), or used in a year for which a notification of
34 a change affecting federal taxable income must be filed under

1 subsection (b) of Section 506, the claim may be filed within
2 the period prescribed in paragraph (1) of subsection (b) in
3 respect of the year for which the notification is required. In
4 the case of such a claim, the amount of the refund may exceed
5 the portion of the tax paid within the period provided in
6 subsection (d) to the extent of the amount of the overpayment
7 attributable to the recomputation of the taxpayer's Article 2
8 credits, or Section 207 loss, earned, incurred, or used in the
9 taxable year for which the notification is given.

10 (h) Claim for refund based on net loss. On and after August
11 23, 2002 ~~the effective date of this amendatory Act of the 92nd~~
12 ~~General Assembly~~, no claim for refund shall be allowed to the
13 extent the refund is the result of an amount of net loss
14 incurred in any taxable year ending prior to December 31, 2002
15 under Section 207 of this Act that was not reported to the
16 Department within 3 years of the due date (including
17 extensions) of the return for the loss year on either the
18 original return filed by the taxpayer or on amended return or
19 to the extent that the refund is the result of an amount of net
20 loss incurred in any taxable year under Section 207 for which
21 no return was filed within 3 years of the due date (including
22 extensions) of the return for the loss year.

23 (Source: P.A. 91-541, eff. 8-13-99; 92-846, eff. 8-23-02.)

24 Section 5-10. The Public Utilities Act is amended by
25 changing Section 8-403.1 as follows:

26 (220 ILCS 5/8-403.1) (from Ch. 111 2/3, par. 8-403.1)

27 Sec. 8-403.1. Electricity purchased from qualified solid
28 waste energy facility; tax credit; distributions for economic
29 development.

30 (a) It is hereby declared to be the policy of this State to
31 encourage the development of alternate energy production
32 facilities in order to conserve our energy resources and to

1 provide for their most efficient use.

2 (b) For the purpose of this Section and Section 9-215.1,
3 "qualified solid waste energy facility" means a facility
4 determined by the Illinois Commerce Commission to qualify as
5 such under the Local Solid Waste Disposal Act, to use methane
6 gas generated from landfills as its primary fuel, and to
7 possess characteristics that would enable it to qualify as a
8 cogeneration or small power production facility under federal
9 law.

10 (c) In furtherance of the policy declared in this Section,
11 the Illinois Commerce Commission shall require electric
12 utilities to enter into long-term contracts to purchase
13 electricity from qualified solid waste energy facilities
14 located in the electric utility's service area, for a period
15 beginning on the date that the facility begins generating
16 electricity and having a duration of not less than 10 years in
17 the case of facilities fueled by landfill-generated methane, or
18 20 years in the case of facilities fueled by methane generated
19 from a landfill owned by a forest preserve district. The
20 purchase rate contained in such contracts shall be equal to the
21 average amount per kilowatt-hour paid from time to time by the
22 unit or units of local government in which the electricity
23 generating facilities are located, excluding amounts paid for
24 street lighting and pumping service.

25 (d) Whenever a public utility is required to purchase
26 electricity pursuant to subsection (c) above, it shall be
27 entitled to credits in respect of its obligations to remit to
28 the State taxes it has collected under the Electricity Excise
29 Tax Law equal to the amounts, if any, by which payments for
30 such electricity exceed (i) the then current rate at which the
31 utility must purchase the output of qualified facilities
32 pursuant to the federal Public Utility Regulatory Policies Act
33 of 1978, less (ii) any costs, expenses, losses, damages or
34 other amounts incurred by the utility, or for which it becomes

1 liable, arising out of its failure to obtain such electricity
2 from such other sources. The amount of any such credit shall,
3 in the first instance, be determined by the utility, which
4 shall make a monthly report of such credits to the Illinois
5 Commerce Commission and, on its monthly tax return, to the
6 Illinois Department of Revenue. Under no circumstances shall a
7 utility be required to purchase electricity from a qualified
8 solid waste energy facility at the rate prescribed in
9 subsection (c) of this Section if such purchase would result in
10 estimated tax credits that exceed, on a monthly basis, the
11 utility's estimated obligation to remit to the State taxes it
12 has collected under the Electricity Excise Tax Law. The owner
13 or operator shall negotiate facility operating conditions with
14 the purchasing utility in accordance with that utility's posted
15 standard terms and conditions for small power producers. If the
16 Department of Revenue disputes the amount of any such credit,
17 such dispute shall be decided by the Illinois Commerce
18 Commission. Whenever a qualified solid waste energy facility
19 has paid or otherwise satisfied in full the capital costs or
20 indebtedness incurred in developing and implementing the
21 qualified solid waste energy facility, whenever the qualified
22 solid waste energy facility ceases to operate and produce
23 electricity from methane gas generated from landfills, or at
24 the end of the contract entered into pursuant to subsection (c)
25 of this Section, whichever occurs first, the qualified solid
26 waste energy facility shall reimburse the Public Utility Fund
27 and the General Revenue Fund in the State treasury for the
28 actual reduction in payments to those Funds caused by this
29 subsection (d) in a manner to be determined by the Illinois
30 Commerce Commission and based on the manner in which revenues
31 for those Funds were reduced. The payments shall be made to the
32 Illinois Commerce Commission, which shall determine the
33 appropriate disbursements to the Public Utility Fund and the
34 General Revenue Fund based on this subsection (d).

1 (e) The Illinois Commerce Commission shall not require an
2 electric utility to purchase electricity from any qualified
3 solid waste energy facility which is owned or operated by an
4 entity that is primarily engaged in the business of producing
5 or selling electricity, gas, or useful thermal energy from a
6 source other than one or more qualified solid waste energy
7 facilities.

8 (e-5) A qualified solid waste energy facility may receive
9 the purchase rate provided in subsection (c) of this Section
10 only for kilowatt-hours generated by the use of methane gas
11 generated from landfills. The purchase rate provided in
12 subsection (c) of this Section does not apply to electricity
13 generated by the use of a fuel that is not methane gas
14 generated from landfills. If the Illinois Commerce Commission
15 determines that a qualified solid waste energy facility has
16 violated the requirement regarding the use of methane gas
17 generated from a landfill as set forth in this subsection
18 (e-5), then the Commission shall issue an order requiring that
19 the qualified solid waste energy facility repay the State for
20 all dollar amounts of electricity sales that are determined by
21 the Commission to be the result of the violation. As part of
22 that order, the Commission shall have the authority to revoke
23 the facility's approval to act as a qualified solid waste
24 energy facility granted by the Commission under this Section.
25 If the amount owed by the qualified solid waste energy facility
26 is not received by the Commission within 90 days after the date
27 of the Commission's order that requires repayment, then the
28 Commission shall issue an order that revokes the facility's
29 approval to act as a qualified solid waste energy facility
30 granted by the Commission under this Section. The Commission's
31 action that vacates prior qualified solid waste energy facility
32 approval does not excuse the repayment to the State treasury
33 required by subsection (d) of this Section for utility tax
34 credits accumulated up to the time of the Commission's action.

1 A qualified solid waste energy facility must receive Commission
2 approval before it may use any fuel in addition to methane gas
3 generated from a landfill in order to generate electricity. If
4 a qualified solid waste energy facility petitions the
5 Commission to use any fuel in addition to methane gas generated
6 from a landfill to generate electricity, then the Commission
7 shall have the authority to do the following:

8 (1) establish the methodology for determining the
9 amount of electricity that is generated by the use of
10 methane gas generated from a landfill and the amount that
11 is generated by the use of other fuel;

12 (2) determine all reporting requirements for the
13 qualified solid waste energy facility that are necessary
14 for the Commission to determine the amount of electricity
15 that is generated by the use of methane gas from a landfill
16 and the amount that is generated by the use of other fuel
17 and the resulting payments to the qualified solid waste
18 energy facility; and

19 (3) require that the qualified solid waste energy
20 facility, at the qualified solid waste energy facility's
21 expense, install metering equipment that the Commission
22 determines is necessary to enforce compliance with this
23 subsection (e-5).

24 A public utility that is required to enter into a long-term
25 purchase contract with a qualified solid waste energy facility
26 has no duty to determine whether the electricity being
27 purchased was generated by the use of methane gas generated
28 from a landfill or was generated by the use of some other fuel
29 in violation of the requirements of this subsection (e-5).

30 (f) This Section does not require an electric utility to
31 construct additional facilities unless those facilities are
32 paid for by the owner or operator of the affected qualified
33 solid waste energy facility.

34 (g) The Illinois Commerce Commission shall require that:

1 (1) electric utilities use the electricity purchased from a
2 qualified solid waste energy facility to displace electricity
3 generated from nuclear power or coal mined and purchased
4 outside the boundaries of the State of Illinois before
5 displacing electricity generated from coal mined and purchased
6 within the State of Illinois, to the extent possible, and (2)
7 electric utilities report annually to the Commission on the
8 extent of such displacements.

9 (h) Nothing in this Section is intended to cause an
10 electric utility that is required to purchase power hereunder
11 to incur any economic loss as a result of its purchase. All
12 amounts paid for power which a utility is required to purchase
13 pursuant to subparagraph (c) shall be deemed to be costs
14 prudently incurred for purposes of computing charges under
15 rates authorized by Section 9-220 of this Act. Tax credits
16 provided for herein shall be reflected in charges made pursuant
17 to rates so authorized to the extent such credits are based
18 upon a cost which is also reflected in such charges.

19 (i) Beginning in February 1999 and through January 2009,
20 each qualified solid waste energy facility that sells
21 electricity to an electric utility at the purchase rate
22 described in subsection (c) shall file with the Department of
23 Revenue on or before the 15th of each month a form, prescribed
24 by the Department of Revenue, that states the number of
25 kilowatt hours of electricity for which payment was received at
26 that purchase rate from electric utilities in Illinois during
27 the immediately preceding month. This form shall be accompanied
28 by a payment from the qualified solid waste energy facility in
29 an amount equal to six-tenths of a mill (\$0.0006) per kilowatt
30 hour of electricity stated on the form. Beginning on the
31 effective date of this amendatory Act of the 92nd General
32 Assembly, a qualified solid waste energy facility must file the
33 form required under this subsection (i) before the 15th of each
34 month regardless of whether the facility received any payment

1 in the previous month. Payments received by the Department of
2 Revenue shall be deposited into the Municipal Economic
3 Development Fund, a trust fund created outside the State
4 treasury. The State Treasurer may invest the moneys in the Fund
5 in any investment authorized by the Public Funds Investment
6 Act, and investment income shall be deposited into and become
7 part of the Fund. Moneys in the Fund shall be used by the State
8 Treasurer as provided in subsection (j).

9 Beginning on July 1, 2006 through January 31, 2009, each
10 month the State Treasurer shall certify the following to the
11 State Comptroller:

12 (A) the amount received by the Department of Revenue
13 under this subsection (i) during the immediately preceding
14 month; and

15 (B) the amount received by the Department of Revenue
16 under this subsection (i) in the corresponding month in
17 calendar year 2002.

18 As soon as practicable after receiving the certification from
19 the State Treasurer, the State Comptroller shall transfer from
20 the General Revenue Fund to the Municipal Economic Development
21 Fund in the State treasury an amount equal to the amount by
22 which the amount calculated under item (B) of this paragraph
23 exceeds the amount calculated under item (A) of this paragraph,
24 if any.

25 The obligation of a qualified solid waste energy facility
26 to make payments into the Municipal Economic Development Fund
27 shall terminate upon either: (1) expiration or termination of a
28 facility's contract to sell electricity to an electric utility
29 at the purchase rate described in subsection (c); or (2) entry
30 of an enforceable, final, and non-appealable order by a court
31 of competent jurisdiction that Public Act 89-448 is invalid.
32 Payments by a qualified solid waste energy facility into the
33 Municipal Economic Development Fund do not relieve the
34 qualified solid waste energy facility of its obligation to

1 reimburse the Public Utility Fund and the General Revenue Fund
2 for the actual reduction in payments to those Funds as a result
3 of credits received by electric utilities under subsection (d).

4 A qualified solid waste energy facility that fails to
5 timely file the requisite form and payment as required by this
6 subsection (i) shall be subject to penalties and interest in
7 conformance with the provisions of the Illinois Uniform Penalty
8 and Interest Act.

9 Every qualified solid waste energy facility subject to the
10 provisions of this subsection (i) shall keep and maintain
11 records and books of its sales pursuant to subsection (c),
12 including payments received from those sales and the
13 corresponding tax payments made in accordance with this
14 subsection (i), and for purposes of enforcement of this
15 subsection (i) all such books and records shall be subject to
16 inspection by the Department of Revenue or its duly authorized
17 agents or employees.

18 When a qualified solid waste energy facility fails to file
19 the form or make the payment required under this subsection
20 (i), the Department of Revenue, to the extent that it is
21 practical, may enforce the payment obligation in a manner
22 consistent with Section 5 of the Retailers' Occupation Tax Act,
23 and if necessary may impose and enforce a tax lien in a manner
24 consistent with Sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, and 5i of
25 the Retailers' Occupation Tax Act. No tax lien may be imposed
26 or enforced, however, unless a qualified solid waste energy
27 facility fails to make the payment required under this
28 subsection (i). Only to the extent necessary and for the
29 purpose of enforcing this subsection (i), the Department of
30 Revenue may secure necessary information from a qualified solid
31 waste energy facility in a manner consistent with Section 10 of
32 the Retailers' Occupation Tax Act.

33 All information received by the Department of Revenue in
34 its administration and enforcement of this subsection (i) shall

1 be confidential in a manner consistent with Section 11 of the
2 Retailers' Occupation Tax Act. The Department of Revenue may
3 adopt rules to implement the provisions of this subsection (i).

4 For purposes of implementing the maximum aggregate
5 distribution provisions in subsections (j) and (k), when a
6 qualified solid waste energy facility makes a late payment to
7 the Department of Revenue for deposit into the Municipal
8 Economic Development Fund, that payment and deposit shall be
9 attributed to the month and corresponding quarter in which the
10 payment should have been made, and the Treasurer shall make
11 retroactive distributions or refunds, as the case may be,
12 whenever such late payments so require.

13 (j) The State Treasurer, without appropriation, must make
14 distributions immediately after January 15, April 15, July 15,
15 and October 15 of each year, up to maximum aggregate
16 distributions of \$500,000 for the distributions made in the 4
17 quarters beginning with the April distribution and ending with
18 the January distribution, from the Municipal Economic
19 Development Fund to each city, village, or incorporated town
20 that has within its boundaries an incinerator that: (1) uses
21 or, on the effective date of Public Act 90-813, used municipal
22 waste as its primary fuel to generate electricity; (2) was
23 determined by the Illinois Commerce Commission to qualify as a
24 qualified solid waste energy facility prior to the effective
25 date of Public Act 89-448; and (3) commenced operation prior to
26 January 1, 1998. Total distributions in the aggregate to all
27 qualified cities, villages, and incorporated towns in the 4
28 quarters beginning with the April distribution and ending with
29 the January distribution shall not exceed \$500,000. The amount
30 of each distribution shall be determined pro rata based on the
31 population of the city, village, or incorporated town compared
32 to the total population of all cities, villages, and
33 incorporated towns eligible to receive a distribution.
34 Distributions received by a city, village, or incorporated town

1 must be held in a separate account and may be used only to
2 promote and enhance industrial, commercial, residential,
3 service, transportation, and recreational activities and
4 facilities within its boundaries, thereby enhancing the
5 employment opportunities, public health and general welfare,
6 and economic development within the community, including
7 administrative expenditures exclusively to further these
8 activities. These funds, however, shall not be used by the
9 city, village, or incorporated town, directly or indirectly, to
10 purchase, lease, operate, or in any way subsidize the operation
11 of any incinerator, and these funds shall not be paid, directly
12 or indirectly, by the city, village, or incorporated town to
13 the owner, operator, lessee, shareholder, or bondholder of any
14 incinerator. Moreover, these funds shall not be used to pay
15 attorneys fees in any litigation relating to the validity of
16 Public Act 89-448. Nothing in this Section prevents a city,
17 village, or incorporated town from using other corporate funds
18 for any legitimate purpose. For purposes of this subsection,
19 the term "municipal waste" has the meaning ascribed to it in
20 Section 3.290 of the Environmental Protection Act.

21 (k) If maximum aggregate distributions of \$500,000 under
22 subsection (j) have been made after the January distribution
23 from the Municipal Economic Development Fund, then the balance
24 in the Fund shall be refunded to the qualified solid waste
25 energy facilities that made payments that were deposited into
26 the Fund during the previous 12-month period. The refunds shall
27 be prorated based upon the facility's payments in relation to
28 total payments for that 12-month period.

29 (l) Beginning January 1, 2000, and each January 1
30 thereafter, each city, village, or incorporated town that
31 received distributions from the Municipal Economic Development
32 Fund, continued to hold any of those distributions, or made
33 expenditures from those distributions during the immediately
34 preceding year shall submit to a financial and compliance and

1 program audit of those distributions performed by the Auditor
2 General at no cost to the city, village, or incorporated town
3 that received the distributions. The audit should be completed
4 by June 30 or as soon thereafter as possible. The audit shall
5 be submitted to the State Treasurer and those officers
6 enumerated in Section 3-14 of the Illinois State Auditing Act.
7 If the Auditor General finds that distributions have been
8 expended in violation of this Section, the Auditor General
9 shall refer the matter to the Attorney General. The Attorney
10 General may recover, in a civil action, 3 times the amount of
11 any distributions illegally expended. For purposes of this
12 subsection, the terms "financial audit," "compliance audit",
13 and "program audit" have the meanings ascribed to them in
14 Sections 1-13 and 1-15 of the Illinois State Auditing Act.

15 (m) On and after the effective date of this amendatory Act
16 of the 94th General Assembly, beginning on the first date on
17 which renewable energy certificates or other saleable
18 representations are sold by a qualified solid waste energy
19 facility, with or without the electricity generated by the
20 facility, and utilized by an electric utility or another
21 electric supplier to comply with a renewable energy portfolio
22 standard mandated by Illinois law or mandated by order of the
23 Illinois Commerce Commission, that qualified solid waste
24 energy facility may not sell electricity pursuant to this
25 Section and shall be exempt from the requirements of
26 subsections (a) through (l) of this Section, except that it
27 shall remain obligated for any reimbursements required under
28 subsection (d) of this Section. All of the provisions of this
29 Section shall remain in full force and effect with respect to
30 any qualified solid waste energy facility that sold electric
31 energy pursuant to this Section at any time before July 1, 2006
32 and that does not sell renewable energy certificates or other
33 saleable representations to meet the requirements of a
34 renewable energy portfolio standard mandated by Illinois law or

1 mandated by order of the Illinois Commerce Commission.

2 (n) Notwithstanding any other provision of law to the
3 contrary, beginning on July 1, 2006, the Illinois Commerce
4 Commission shall not issue any order determining that a
5 facility is a qualified solid waste energy facility unless the
6 qualified solid waste energy facility was determined by the
7 Illinois Commerce Commission to be a qualified solid waste
8 energy facility before July 1, 2006. As a guide to the intent,
9 interpretation, and application of this amendatory Act of the
10 94th General Assembly, it is hereby declared to be the policy
11 of this State to honor each qualified solid waste energy
12 facility contract in existence on the effective date of this
13 amendatory Act of the 94th General Assembly if the qualified
14 solid waste energy facility continues to meet the requirements
15 of this Section for the duration of its respective contract
16 term.

17 (Source: P.A. 91-901, eff. 1-1-01; 92-435, eff. 8-17-01;
18 92-574, eff. 6-26-02.)

19 ARTICLE 99. EFFECTIVE DATE

20 Section 99-99. Effective date. This Act takes effect upon
21 becoming law."