



## 94TH GENERAL ASSEMBLY

### State of Illinois

#### 2005 and 2006

##### SB2048

Introduced 2/25/2005, by Sen. Don Harmon

#### SYNOPSIS AS INTRODUCED:

35 ILCS 200/23-15  
35 ILCS 200/23-20  
35 ILCS 200/23-35

Amends the Property Tax Code concerning tax objection procedures and hearings. Provides that, in property tax rate objection cases, refunds may be granted only to the extent that the property taxes objected to were above the limit allowed by law or were used for expenditures that were both illegal and without a valid public purpose. Provides that refunds made after the funds in the Protest Fund are exhausted shall be made by the collector from the next funds collected beginning in the second budget year after entry of the final order until full payment of the refund and interest thereon has been made (now, the refunds must be made from the next funds collected after the entry of the final order). Provides that, for the purposes of tax objections based on budget or appropriation ordinances, "municipality" means all municipal corporations in, and political subdivisions of, this State (now, excepts out from this definition a number of units of local government) and eliminates a basis on which a taxpayer may file an objection under these provisions. Makes other changes. Effective immediately.

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FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning taxes.

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

4 Section 10. The Property Tax Code is amended by changing  
5 Sections 23-15, 23-20, and 23-35 as follows:

6 (35 ILCS 200/23-15)

7 Sec. 23-15. Tax objection procedure and hearing.

8 (a) A tax objection complaint under Section 23-10 shall be  
9 filed in the circuit court of the county in which the subject  
10 property is located. Joinder of plaintiffs shall be permitted  
11 to the same extent permitted by law in any personal action  
12 pending in the court and shall be in accordance with Section  
13 2-404 of the Code of Civil Procedure; provided, however, that  
14 no complaint shall be filed as a class action. The complaint  
15 shall name the county collector as defendant and shall specify  
16 any objections that the plaintiff may have to the taxes in  
17 question. No appearance or answer by the county collector to  
18 the tax objection complaint, nor any further pleadings, need be  
19 filed. Amendments to the complaint may be made to the same  
20 extent which, by law, could be made in any personal action  
21 pending in the court.

22 (b) (1) The court, sitting without a jury, shall hear and  
23 determine all objections specified to the taxes, assessments,  
24 or levies in question. This Section shall be construed to  
25 provide a complete remedy for any claims with respect to those  
26 taxes, assessments, or levies, excepting only matters for which  
27 an exclusive remedy is provided elsewhere in this Code.

28 (2) The taxes, assessments, and levies that are the subject  
29 of the objection shall be presumed correct and legal, but the  
30 presumption is rebuttable. The plaintiff has the burden of  
31 proving any contested matter of fact by clear and convincing  
32 evidence.

1 (3) Objections to assessments shall be heard de novo by the  
2 court. The court shall grant relief in the cases in which the  
3 objector meets the burden of proof under this Section and shows  
4 an assessment to be incorrect or illegal. If an objection is  
5 made claiming incorrect valuation, the court shall consider the  
6 objection without regard to the correctness of any practice,  
7 procedure, or method of valuation followed by the assessor,  
8 board of appeals, or board of review in making or reviewing the  
9 assessment, and without regard to the intent or motivation of  
10 any assessing official. The doctrine known as constructive  
11 fraud is hereby abolished for purposes of all challenges to  
12 taxes, assessments, or levies.

13 (c) If the court orders a refund of any part of the taxes  
14 paid, it shall also order the payment of interest as provided  
15 in Section 23-20. Appeals may be taken from final judgments as  
16 in other civil cases.

17 (d) This amendatory Act of 1995 shall apply to all tax  
18 objection matters still pending for any tax year, except as  
19 provided in Sections 23-5 and 23-10 regarding procedures and  
20 time limitations for payment of taxes and filing tax objection  
21 complaints.

22 (e) In counties with less than 3,000,000 inhabitants, if  
23 the court renders a decision lowering the assessment of a  
24 particular parcel on which a residence occupied by the owner is  
25 situated, the reduced assessment, subject to equalization,  
26 shall remain in effect for the remainder of the general  
27 assessment period as provided in Sections 9-215 through 9-225,  
28 unless that parcel is subsequently sold in an arm's length  
29 transaction establishing a fair cash value for the parcel that  
30 is different from the fair cash value on which the court's  
31 assessment is based, or unless the decision of the court is  
32 reversed or modified upon review.

33 (f) In property tax rate objection cases, refunds may be  
34 granted only to the extent that the property taxes objected to  
35 were above the limit allowed by law or were used for  
36 expenditures that were both illegal and without a valid public

1 purpose. This amendatory Act of the 94th General Assembly  
2 applies to all final refund orders entered on or after the  
3 effective date of this amendatory Act of the 94th General  
4 Assembly.

5 (Source: P.A. 88-455; 88-642, eff. 9-9-94; 89-126, eff.  
6 7-11-95; 89-290, eff. 1-1-96; 89-593, eff. 8-1-96; 89-626, eff.  
7 8-9-96.)

8 (35 ILCS 200/23-20)

9 Sec. 23-20. Effect of protested payments; refunds. No  
10 protest shall prevent or be a cause of delay in the  
11 distribution of tax collections to the taxing districts of any  
12 taxes collected which were not paid under protest. If the final  
13 order of the Property Tax Appeal Board or of a court results in  
14 a refund to the taxpayer, refunds shall be made by the  
15 collector from funds remaining in the Protest Fund until such  
16 funds are exhausted and thereafter from the next funds  
17 collected beginning in the second budget year after entry of  
18 the final order until full payment of the refund and interest  
19 thereon has been made. Interest from the date of payment,  
20 regardless of whether the payment was made before the effective  
21 date of this amendatory Act of 1997, or from the date payment  
22 is due, whichever is later, to the date of refund shall also be  
23 paid to the taxpayer at the rate of 5% per year. This  
24 amendatory Act of the 94th General Assembly applies to all  
25 final orders entered on or after the effective date of this  
26 amendatory Act of the 94th General Assembly.

27 (Source: P.A. 90-556, eff. 12-12-97.)

28 (35 ILCS 200/23-35)

29 Sec. 23-35. Tax objection based on budget or appropriation  
30 ordinance. Notwithstanding the provisions of Section 23-10, no  
31 objection to any property tax levied by any municipality shall  
32 be sustained by any court because of the forms of any budget or  
33 appropriation ordinance, or the degree of itemization or  
34 classification of items therein, or the reasonableness of any

1 amount budgeted or appropriated thereby, or the transfer of  
2 assets from one fund or use to another fund or use, or any  
3 other matter that is included in the budget or appropriation  
4 ordinance and could be cured prior to adoption of the final  
5 budget and appropriation ordinance, if:

6 (a) a tentative budget and appropriation ordinance was  
7 prepared at the direction of the governing body of the  
8 municipality and made conveniently available to public  
9 inspection for at least 30 days prior to the public hearing  
10 specified below and to final action thereon, or such other  
11 time as may be required by the municipality's enabling act;

12 (b) at least one public hearing has been held by the  
13 governing body as to the tentative budget and appropriation  
14 ordinance prior to final action thereon, and notice of the  
15 time and place where copies of the tentative budget and  
16 appropriation ordinances are available for public  
17 inspection, and the time and place of the hearing, has been  
18 given by publication in a newspaper published in the  
19 municipality at least 30 days prior to the time of the  
20 hearing, or such other time as may be required by the  
21 municipality's enabling act, or, if there is no newspaper  
22 published in the municipality, notice of the public hearing  
23 has been given by publication in a newspaper of general  
24 circulation in the municipality; and

25 (c) the budget and appropriation ordinance finally  
26 adopted is substantially identical, as to the matters to  
27 which objection is made, with the tentative budget and  
28 appropriation ordinance submitted for discussion at the  
29 public hearing, unless the taxpayer making the objection  
30 has made the same objection in writing and with the same  
31 specificity to the governing body of the municipality on or  
32 prior to the date of the public hearing ~~adoption of the~~  
33 ~~budget and appropriation ordinance.~~

34 "Municipality", as used in this Section, means all  
35 municipal corporations in, and political subdivisions of, this  
36 State ~~except the following: counties, cities, villages and~~

1 ~~incorporated towns; sanitary districts created under the~~  
2 ~~Metropolitan Water Reclamation District Act; forest preserve~~  
3 ~~districts having a population of 3,000,000 or more, created~~  
4 ~~under the Cook County Forest Preserve Park District Act; boards~~  
5 ~~of education of school districts in cities exceeding 1,000,000~~  
6 ~~inhabitants; the Chicago Park District created under the~~  
7 ~~Chicago Park District Act; and park districts as defined in~~  
8 ~~subsection (b) of Section 1-3 of the Park District Code.~~

9 This amendatory Act of the 94th General Assembly applies to  
10 all property tax levies based on budgets or appropriation  
11 ordinances adopted on or after the effective date of this  
12 amendatory Act of the 94th General Assembly.

13 (Source: P.A. 91-357, eff. 7-29-99.)

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