

1 AMENDMENT TO SENATE BILL 88

2 AMENDMENT NO. _____. Amend Senate Bill 88, AS AMENDED, by
3 replacing the title with the following:

4 "AN ACT concerning telecommunications."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "ARTICLE 5

8 Section 5-1. Short title. This Act may be cited as the
9 Simplified Municipal Telecommunications Tax Act.

10 Section 5-5. Legislative intent. The General Assembly has
11 authorized the corporate authorities of any municipality to
12 impose various fees and taxes on the privilege of originating
13 or receiving telecommunications, and on retailers engaged in
14 the business of transmitting such telecommunications, all of
15 which are remitted by such retailers directly to the imposing
16 municipality. To simplify the imposition and collection of
17 municipal telecommunications taxes and to reduce complication
18 and burden, the General Assembly is repealing the municipal
19 telecommunications tax, the municipal tax on the occupation
20 or privilege of transmitting messages, and the municipal

1 infrastructure maintenance fee, and is enacting this
2 Simplified Municipal Telecommunications Tax Act which
3 provides for a single municipally imposed telecommunications
4 tax which, for municipalities with populations of less than
5 500,000, will be collected by the Illinois Department of
6 Revenue, but which, for municipalities of 500,000 or more,
7 will continue to be collected by such municipalities.

8 Section 5-7. Definitions. For purposes of the taxes
9 authorized by this Act:

10 "Amount paid" means the amount charged to the taxpayer's
11 service address in such municipality regardless of where such
12 amount is billed or paid.

13 "Department" means the Illinois Department of Revenue.

14 "Gross charge" means the amount paid for the act or
15 privilege of originating or receiving telecommunications in
16 such municipality and for all services and equipment provided
17 in connection therewith by a retailer, valued in money
18 whether paid in money or otherwise, including cash, credits,
19 services and property of every kind or nature, and shall be
20 determined without any deduction on account of the cost of
21 such telecommunications, the cost of the materials used,
22 labor or service costs or any other expense whatsoever. In
23 case credit is extended, the amount thereof shall be included
24 only as and when paid. "Gross charges" for private line
25 service shall include charges imposed at each channel point
26 within this State, charges for the channel mileage between
27 each channel point within this State, and charges for that
28 portion of the interstate inter-office channel provided
29 within Illinois. However, "gross charge" shall not include:

30 (1) any amounts added to a purchaser's bill because
31 of a charge made pursuant to: (i) the tax imposed by this
32 Act, (ii) the tax imposed by the Telecommunications
33 Excise Tax Act, (iii) the tax imposed by Section 4251 of

1 the Internal Revenue Code, (iv) 911 surcharges, or (v)
2 charges added to customers' bills pursuant to the
3 provisions of Section 9-221 or 9-222 of the Public
4 Utilities Act, as amended, or any similar charges added
5 to customers' bills by retailers who are not subject to
6 rate regulation by the Illinois Commerce Commission for
7 the purpose of recovering any of the tax liabilities or
8 other amounts specified in those provisions of the Public
9 Utilities Act;

10 (2) charges for a sent collect telecommunication
11 received outside of such municipality;

12 (3) charges for leased time on equipment or charges
13 for the storage of data or information for subsequent
14 retrieval or the processing of data or information
15 intended to change its form or content. Such equipment
16 includes, but is not limited to, the use of calculators,
17 computers, data processing equipment, tabulating
18 equipment or accounting equipment and also includes the
19 usage of computers under a time-sharing agreement;

20 (4) charges for customer equipment, including such
21 equipment that is leased or rented by the customer from
22 any source, wherein such charges are disaggregated and
23 separately identified from other charges;

24 (5) charges to business enterprises certified as
25 exempt under Section 9-222.1 of the Public Utilities Act
26 to the extent of such exemption and during the period of
27 time specified by the Department of Commerce and
28 Community Affairs;

29 (6) charges for telecommunications and all services
30 and equipment provided in connection therewith between a
31 parent corporation and its wholly owned subsidiaries or
32 between wholly owned subsidiaries when the tax imposed
33 under this Act has already been paid to a retailer and
34 only to the extent that the charges between the parent

1 corporation and wholly owned subsidiaries or between
2 wholly owned subsidiaries represent expense allocation
3 between the corporations and not the generation of profit
4 for the corporation rendering such service;

5 (7) bad debts ("bad debt" means any portion of a
6 debt that is related to a sale at retail for which gross
7 charges are not otherwise deductible or excludable that
8 has become worthless or uncollectible, as determined
9 under applicable federal income tax standards; if the
10 portion of the debt deemed to be bad is subsequently
11 paid, the retailer shall report and pay the tax on that
12 portion during the reporting period in which the payment
13 is made);

14 (8) charges paid by inserting coins in
15 coin-operated telecommunication devices; or

16 (9) amounts paid by telecommunications retailers
17 under the Telecommunications Infrastructure Maintenance
18 Fee Act.

19 "Interstate telecommunications" means all
20 telecommunications that either originate or terminate outside
21 this State.

22 "Intrastate telecommunications" means all
23 telecommunications that originate and terminate within this
24 State.

25 "Person" means any natural individual, firm, trust,
26 estate, partnership, association, joint stock company, joint
27 venture, corporation, limited liability company, or a
28 receiver, trustee, guardian, or other representative
29 appointed by order of any court, the Federal and State
30 governments, including State universities created by statute,
31 or any city, town, county, or other political subdivision of
32 this State.

33 "Purchase at retail" means the acquisition, consumption
34 or use of telecommunications through a sale at retail.

1 "Retailer" means and includes every person engaged in the
2 business of making sales at retail as defined in this
3 Section. The Department may, in its discretion, upon
4 application, authorize the collection of the tax hereby
5 imposed by any retailer not maintaining a place of business
6 within this State, who, to the satisfaction of the
7 Department, furnishes adequate security to insure collection
8 and payment of the tax. Such retailer shall be issued,
9 without charge, a permit to collect such tax. When so
10 authorized, it shall be the duty of such retailer to collect
11 the tax upon all of the gross charges for telecommunications
12 in this State in the same manner and subject to the same
13 requirements as a retailer maintaining a place of business
14 within this State. The permit may be revoked by the
15 Department at its discretion.

16 "Retailer maintaining a place of business in this State",
17 or any like term, means and includes any retailer having or
18 maintaining within this State, directly or by a subsidiary,
19 an office, distribution facilities, transmission facilities,
20 sales office, warehouse or other place of business, or any
21 agent or other representative operating within this State
22 under the authority of the retailer or its subsidiary,
23 irrespective of whether such place of business or agent or
24 other representative is located here permanently or
25 temporarily, or whether such retailer or subsidiary is
26 licensed to do business in this State.

27 "Sale at retail" means the transmitting, supplying or
28 furnishing of telecommunications and all services and
29 equipment provided in connection therewith for a
30 consideration, to persons other than the Federal and State
31 governments, and State universities created by statute and
32 other than between a parent corporation and its wholly owned
33 subsidiaries or between wholly owned subsidiaries for their
34 use or consumption and not for resale.

1 "Service address" means the location of
2 telecommunications equipment from which telecommunications
3 services are originated or at which telecommunications
4 services are received by a taxpayer. In the event this may
5 not be a defined location, as in the case of mobile phones,
6 paging systems, and maritime systems, service address means
7 the customer's place of primary use as defined in the Mobile
8 Telecommunications Sourcing Conformity Act. For
9 air-to-ground systems and the like, "service address" shall
10 mean the location of a taxpayer's primary use of the
11 telecommunications equipment as defined by telephone number,
12 authorization code, or location in Illinois where bills are
13 sent.

14 "Taxpayer" means a person who individually or through his
15 or her agents, employees, or permittees engages in the act or
16 privilege of originating or receiving telecommunications in a
17 municipality and who incurs a tax liability as authorized by
18 this Act.

19 "Telecommunications", in addition to the meaning
20 ordinarily and popularly ascribed to it, includes, without
21 limitation, messages or information transmitted through use
22 of local, toll, and wide area telephone service, private line
23 services, channel services, telegraph services,
24 teletypewriter, computer exchange services, cellular mobile
25 telecommunications service, specialized mobile radio,
26 stationary two-way radio, paging service, or any other form
27 of mobile and portable one-way or two-way communications, or
28 any other transmission of messages or information by
29 electronic or similar means, between or among points by wire,
30 cable, fiber optics, laser, microwave, radio, satellite, or
31 similar facilities. As used in this Act, "private line"
32 means a dedicated non-traffic sensitive service for a single
33 customer, that entitles the customer to exclusive or priority
34 use of a communications channel or group of channels, from

1 one or more specified locations to one or more other
2 specified locations. The definition of "telecommunications"
3 shall not include value added services in which computer
4 processing applications are used to act on the form, content,
5 code, and protocol of the information for purposes other than
6 transmission. "Telecommunications" shall not include
7 purchases of telecommunications by a telecommunications
8 service provider for use as a component part of the service
9 provided by such provider to the ultimate retail consumer who
10 originates or terminates the taxable end-to-end
11 communications. Carrier access charges, right of access
12 charges, charges for use of inter-company facilities, and all
13 telecommunications resold in the subsequent provision of,
14 used as a component of, or integrated into, end-to-end
15 telecommunications service shall be non-taxable as sales for
16 resale. Prepaid telephone calling arrangements shall not be
17 considered "telecommunications" subject to the tax imposed
18 under this Act. For purposes of this Section, "prepaid
19 telephone calling arrangements" means that term as defined in
20 Section 2-27 of the Retailers' Occupations Tax Act.

21 Section 5-10. Authority. The corporate authorities of
22 any municipality in this State may tax any and all of the
23 following acts or privileges:

24 (a) The act or privilege of originating in such
25 municipality or receiving in such municipality intrastate
26 telecommunications by a person. However, such tax is not
27 imposed on such act or privilege to the extent such act or
28 privilege may not, under the Constitution and statutes of the
29 United States, be made the subject of taxation by
30 municipalities in this State.

31 (b) The act or privilege of originating in such
32 municipality or receiving in such municipality interstate
33 telecommunications by a person. To prevent actual multi-state

1 taxation of the act or privilege that is subject to taxation
2 under this subsection, any taxpayer, upon proof that the
3 taxpayer has paid a tax in another state on such event, shall
4 be allowed a credit against any tax enacted pursuant to or
5 authorized by this Section to the extent of the amount of
6 such tax properly due and paid in such other state which was
7 not previously allowed as a credit against any other state or
8 local tax in this State. However, such tax is not imposed on
9 the act or privilege to the extent such act or privilege may
10 not, under the Constitution and statutes of the United
11 States, be made the subject of taxation by municipalities in
12 this State.

13 Section 5-15. Maximum rates.

14 (a) For municipalities with a population of less than
15 500,000, the tax authorized by this Act may be imposed at a
16 rate not to exceed 6% of the gross charge for
17 telecommunications purchased at retail. If imposed, the tax
18 must be in increments of 0.25%.

19 (b) For municipalities with a population of 500,000 or
20 more, the tax authorized by this Act may be imposed at a rate
21 not to exceed 7% of the gross charge for telecommunications
22 purchased at retail. If imposed, the tax must be in
23 increments of 0.25%.

24 Section 5-20. Imposition.

25 (a) On and after January 1, 2003, for municipalities
26 with populations of less than 500,000, the tax authorized by
27 this Act shall be imposed (except as provided in Sections
28 5-25 and 5-30 of this Act), amended, or repealed by an
29 ordinance adopted by the municipality, which ordinance shall
30 be filed by the municipality with the Department pursuant to
31 the rules of the Department.

32 (1) Any ordinance adopted by a municipality with a

1 population of less than 500,000 which attempts to impose,
2 amend or repeal the tax authorized by this Act shall be
3 of no force and effect until properly filed with an
4 appropriate form with the Department.

5 (2) Any certified copy of an ordinance filed with
6 the Department prior to October 1, 2002 shall be
7 effective with respect to gross charges billed by
8 telecommunications retailers on or after January 1, 2003
9 and thereafter any certified copy of an ordinance filed
10 with the Department prior to any April 1 or October 1
11 shall be effective with respect to gross charges billed
12 by telecommunications retailers on or after the following
13 July 1 or January 1, respectively.

14 (b) On and after January 1, 2003, for municipalities
15 with populations of 500,000 or more, the tax authorized by
16 this Act shall be imposed, amended, or repealed, and any
17 authorized exemptions granted, by the adoption of an
18 ordinance.

19 Section 5-25. Existing telecommunications taxes and
20 fees.

21 (a) Between July 1, 2002 and August 1, 2002, the
22 Department shall publish a list of the municipalities with a
23 population of less than 500,000 that have, at any time before
24 the effective date of this Act, enacted ordinances imposing
25 any taxes or fees authorized by subparagraph 1 of Section
26 8-11-2 of the Illinois Municipal Code, Section 8-11-17 of the
27 Illinois Municipal Code, or Section 20 of the
28 Telecommunications Infrastructure Maintenance Fee Act. Such
29 list shall include the name of each such municipality, the
30 rates at which such taxes or fees are imposed as of the
31 effective date of this Act, and the rate of the new
32 Simplified Municipal Telecommunications Tax, as calculated
33 pursuant to Section 5-30 of this Act.

1 (b) In compiling the list described in this Section, the
2 Department shall collect information from retailers,
3 municipalities, the Illinois Commerce Commission, and other
4 sources deemed by the Department to be reliable.

5 (c) Any municipality appearing on the list published
6 pursuant to this Section shall not be required to adopt and
7 file an ordinance implementing the tax authorized by this
8 Act. The list shall be conclusive evidence of the imposition
9 of the tax authorized by this Act at the rate appearing on
10 such list. Any tax imposed in such manner shall take effect
11 with respect to gross charges billed by telecommunications
12 retailers on or after January 1, 2003. A municipality may
13 alter such tax only by filing an ordinance with the
14 Department pursuant to Section 5-20 of this Act.

15 Section 5-30. Calculation of rates for certain
16 municipalities. The rate of the Simplified Municipal
17 Telecommunications Tax for municipalities on the list
18 described in Section 5-25 of this Act shall be measured by
19 the sum of the following rates set forth in ordinances
20 enacted by the municipalities at the rates in effect on the
21 effective date of this Act:

22 (1) The rate equal to 70% of the rate set forth in
23 such ordinance pursuant to subparagraph 1 of Section
24 8-11-2 of the Illinois Municipal Code, rounded to the
25 nearest even 0.25% increment; plus

26 (2) The rate set forth in such ordinance pursuant
27 to Section 8-11-17 of the Illinois Municipal Code,
28 rounded to the nearest even 0.25% increment; plus

29 (3) The rate set forth in such ordinance pursuant
30 to Section 20 of the Telecommunications Infrastructure
31 Maintenance Fee Act.

32 Section 5-35. Rebates and exemptions. Any municipality

1 may implement the following rebates and exemptions:

2 (1) A municipality that imposes the tax authorized
3 by this Act and whose territory includes part of another
4 unit of local government or a school district, may, by
5 separate ordinance, rebate some or all of the amount of
6 such tax paid by the other unit of local government or
7 school district. Any such rebate shall be paid by the
8 municipality directly to the other unit of local
9 government or school district qualifying for the rebate
10 as determined by the municipality's ordinance, which
11 shall not be filed with the Department.

12 (2) A municipality that imposes the tax authorized
13 by this Act may, by separate ordinance, rebate some or
14 all of the amount of such tax to persons 65 years of age
15 or older. Any tax related to such rebate shall be
16 rebated from the municipality directly to persons
17 qualified for the rebate as determined by the
18 municipality's ordinance, which shall not be filed with
19 the Department.

20 (3) A municipality with a population of 500,000 or
21 more that imposes the tax authorized by this Act may, by
22 separate ordinance, exempt from the tax authorized by
23 this Act, charges for inbound toll-free
24 telecommunications service commonly known as "800",
25 "877", or "888" or for a similar service, to the extent
26 such municipality has passed an ordinance providing for
27 this exemption.

28 Section 5-40. Collection.

29 (a) For municipalities with populations of less than
30 500,000, the tax authorized by this Act shall be collected
31 from the taxpayer by a retailer maintaining a place of
32 business in this State and shall be remitted by such retailer
33 to the Department. Any tax required to be collected pursuant

1 to or as authorized by this Act and any such tax collected by
2 such retailer and required to be remitted to the Department
3 shall constitute a debt owed by the retailer to the State.
4 Retailers shall collect the tax from the taxpayer by adding
5 the tax to the gross charge for the act or privilege of
6 originating or receiving telecommunications when sold for
7 use, in the manner prescribed by the Department. The tax
8 authorized by this Act shall constitute a debt of the
9 taxpayer to the retailer until paid, and, if unpaid, is
10 recoverable at law in the same manner as the original charge
11 for such sale at retail. If the retailer fails to collect
12 the tax from the taxpayer, then the taxpayer shall be
13 required to pay the tax directly to the Department in the
14 manner provided by the Department.

15 (b) For municipalities with populations of 500,000 or
16 more, the tax authorized by this Act shall be collected from
17 the taxpayer by a retailer making or effectuating the sale at
18 retail and shall be remitted by such retailer to such
19 municipality. Any tax required to be collected pursuant to
20 an ordinance authorized by this Act and any such tax
21 collected by a retailer shall constitute a debt owed by the
22 retailer to such municipality. Retailers shall collect the
23 tax from the taxpayer by adding the tax to the gross charge
24 for the act or privilege of originating or receiving
25 telecommunications when sold for use, in the manner
26 prescribed by such municipality. The tax authorized by this
27 Act shall constitute a debt of the taxpayer to the retailer
28 who made or effectuated the sale at retail until paid and, if
29 unpaid, is recoverable at law in the same manner as the
30 original charge for the sale at retail. If the retailer
31 fails to collect the tax from the taxpayer, then the taxpayer
32 shall be required to pay the tax directly to such
33 municipality in the manner provided by such municipality.
34 The municipality imposing the tax shall provide for its

1 administration and enforcement.

2 (c) Retailers filing tax returns pursuant to this Act
3 shall, at the time of filing such return, pay to a
4 municipality with a population of 500,000 or more or to the
5 Department for all other municipalities, the amount of the
6 tax collected, less a discount of 1% which is allowed to
7 reimburse the retailer for the expenses incurred in keeping
8 records, billing the customer, preparing and filing returns,
9 remitting the tax and supplying data to a municipality or the
10 Department upon request. No discount may be claimed by a
11 retailer on returns not timely filed and for taxes not timely
12 remitted.

13 (d) Whenever possible, the tax authorized by this Act
14 shall, when collected, be stated as a distinct item separate
15 and apart from the gross charge for telecommunications.

16 Section 5-45. Resellers.

17 (a) If a person who originates or receives
18 telecommunications claims to be a reseller of such
19 telecommunications, such person shall apply to a municipality
20 with a population of 500,000 or more or to the Department for
21 all other municipalities, for a resale number. Such
22 applicant shall state facts which will show a municipality
23 with a population of 500,000 or more or the Department for
24 all other municipalities, why such applicant is not liable
25 for tax authorized by this Act on any of such purchases and
26 shall furnish such additional information as a municipality
27 with a population of 500,000 or more or the Department for
28 all other municipalities, may reasonably require.

29 (b) Upon approval of the application, a municipality
30 with a population of 500,000 or more or the Department for
31 all other municipalities, shall assign a resale number to the
32 applicant and shall certify such number to the applicant. A
33 municipality with a population of 500,000 or more or the

1 Department for all other municipalities, may cancel any
2 number which is obtained through misrepresentation, or which
3 is used to send or receive such telecommunication tax-free
4 when such actions in fact are not for resale, or which no
5 longer applies because of the person's having discontinued
6 the making of resales.

7 (c) Except as provided hereinabove in this Section, the
8 act or privilege of originating or receiving
9 telecommunications in this State shall not be made tax-free
10 on the ground of being a sale for resale unless the person
11 has an active resale number from a municipality with a
12 population of 500,000 or more or the Department for all other
13 municipalities, and furnishes that number to the retailer in
14 connection with certifying to the retailer that any sale to
15 such person is non-taxable because of being a sale for
16 resale.

17 Section 5-50. Returns to the Department.

18 (a) Commencing on February 1, 2003, for the tax imposed
19 under subsection (a) of Section 5-20 of this Act, every
20 retailer maintaining a place of business in this State shall,
21 on or before the last day of each month make a return to the
22 Department for the preceding calendar month, stating:

23 (1) Its name;

24 (2) The address of its principal place of business
25 or the address of the principal place of business (if
26 that is a different address) from which it engages in the
27 business of transmitting telecommunications;

28 (3) Total amount of gross charges billed by it
29 during the preceding calendar month for providing
30 telecommunications during the calendar month;

31 (4) Total amount received by it during the
32 preceding calendar month on credit extended;

33 (5) Deductions allowed by law;

1 (6) Gross charges that were billed by it during the
2 preceding calendar month and upon the basis of which the
3 tax is imposed;

4 (7) Amount of tax (computed upon Item 6);

5 (8) The municipalities to which the Department
6 shall remit the taxes and the amount of such remittances;

7 (9) Such other reasonable information as the
8 Department may require.

9 (b) Any retailer required to make payments under this
10 Section may make the payments by electronic funds transfer.
11 The Department shall adopt rules necessary to effectuate a
12 program of electronic funds transfer. Any retailer who has
13 average monthly tax billings due to the Department under this
14 Act and the Telecommunications Excise Tax Act that exceed
15 \$1,000 shall make all payments by electronic funds transfer
16 as required by rules of the Department.

17 (c) If the retailer's average monthly tax billings due
18 to the Department under this Act and the Telecommunications
19 Excise Tax Act do not exceed \$1,000, the Department may
20 authorize such retailer's returns to be filed on a
21 quarter-annual basis, with the return for January, February,
22 and March of a given year being due by April 30th of that
23 year; with the return for April, May, and June of a given
24 year being due by July 31st of that year; with the return for
25 July, August, and September of a given year being due by
26 October 31st of that year; and with the return for October,
27 November, and December of a given year being due by January
28 31st of the following year.

29 (d) If the retailer is otherwise required to file a
30 monthly or quarterly return and if the retailer's average
31 monthly tax billings due to the Department under this Act and
32 the Telecommunications Excise Tax Act do not exceed \$400, the
33 Department may authorize such retailer's return to be filed
34 on an annual basis, with the return for a given year being

1 due by January 31st of the following year.

2 (e) Each retailer whose average monthly remittance to
3 the Department under this Act and the Telecommunications
4 Excise Tax Act was \$25,000 or more during the preceding
5 calendar year, excluding the month of highest remittance and
6 the month of lowest remittance in such calendar year, and who
7 is not operated by a unit of local government, shall make
8 estimated payments to the Department on or before the 7th,
9 15th, 22nd, and last day of the month during which the tax
10 remittance is owed to the Department in an amount not less
11 than the lower of either 22.5% of the retailer's actual tax
12 collections for the month or 25% of the retailer's actual tax
13 collections for the same calendar month of the preceding
14 year. The amount of such quarter-monthly payments shall be
15 credited against the final remittance of the retailer's
16 return for that month. Any outstanding credit, approved by
17 the Department, arising from the retailer's overpayment of
18 its final remittance for any month may be applied to reduce
19 the amount of any subsequent quarter-monthly payment or
20 credited against the final remittance of the retailer's
21 return for any subsequent month. If any quarter-monthly
22 payment is not paid at the time or in the amount required by
23 this Section, the retailer shall be liable for penalty and
24 interest on the difference between the minimum amount due as
25 a payment and the amount of such payment actually and timely
26 paid, except insofar as the retailer has previously made
27 payments for that month to the Department or received credits
28 in excess of the minimum payments previously due.

29 (f) Notwithstanding any other provision of this Section
30 containing the time within which a retailer may file his or
31 her return, in the case of any retailer who ceases to engage
32 in a kind of business that makes him or her responsible for
33 filing returns under this Section, the retailer shall file a
34 final return under this Section with the Department not more

1 than one month after discontinuing such business.

2 (g) In making such return, the retailer shall determine
3 the value of any consideration other than money received by
4 it and such retailer shall include the value in its return.
5 Such determination shall be subject to review and revision by
6 the Department in the manner hereinafter provided for the
7 correction of returns.

8 (h) Any retailer who has average monthly tax billings
9 due to the Department under this Act and the
10 Telecommunications Excise Tax Act that exceed \$1,000 shall
11 file the return required by this Section by electronic means
12 as required by rules of the Department.

13 (i) The retailer filing the return herein provided for
14 shall, at the time of filing the return, pay to the
15 Department the amounts due pursuant to this Act. The
16 Department shall immediately pay over to the State Treasurer,
17 ex officio, as trustee, 99.5% of all taxes, penalties, and
18 interest collected hereunder for deposit into the Municipal
19 Telecommunications Fund, which is hereby created. The
20 remaining 0.5% received by the Department pursuant to this
21 Act shall be deposited into the Tax Compliance and
22 Administration Fund and shall be used by the Department,
23 subject to appropriation, to cover the costs of the
24 Department. On or before the 25th day of each calendar month,
25 the Department shall prepare and certify to the Comptroller
26 the disbursement of stated sums of money to be paid to named
27 municipalities from the Municipal Telecommunications Fund for
28 amounts collected during the second preceding calendar month.
29 The named municipalities shall be those municipalities
30 identified by a retailer in such retailer's return as having
31 imposed the tax authorized by the Act. The amount of money
32 to be paid to each municipality shall be the amount (not
33 including credit memoranda) collected hereunder during the
34 second preceding calendar month by the Department, plus an

1 amount the Department determines is necessary to offset any
2 amounts that were erroneously paid to a different taxing
3 body, and not including an amount equal to the amount of
4 refunds made during the second preceding calendar month by
5 the Department on behalf of such municipality, and not
6 including any amount that the Department determines is
7 necessary to offset any amount that were payable to a
8 different taxing body but were erroneously paid to the
9 municipality. Within 10 days after receipt by the
10 Comptroller of the disbursement certification from the
11 Department, the Comptroller shall cause the orders to be
12 drawn for the respective amounts in accordance with the
13 directions contained in the certification. When certifying
14 to the Comptroller the amount of a monthly disbursement to a
15 municipality under this Section, the Department shall
16 increase or decrease the amount by an amount necessary to
17 offset any misallocation of previous disbursements. The
18 offset amount shall be the amount erroneously disbursed
19 within the previous 6 months from the time a misallocation is
20 discovered.

21 (j) For municipalities with populations of less than
22 500,000, whenever the Department determines that a refund
23 shall be made under this Section to a claimant instead of
24 issuing a credit memorandum, the Department shall notify the
25 State Comptroller, who shall cause the order to be drawn for
26 the amount specified and to the person named in the
27 notification from the Department. The refund shall be paid
28 by the State Treasurer out of the Municipal
29 Telecommunications Fund.

30 Section 5-55. Pledged revenues. If a municipality has,
31 by contract, pledged or dedicated any or all of the revenues
32 collected under any of its taxes imposed pursuant to
33 subparagraph 1 of Section 8-11-2 of the Illinois Municipal

1 Code, Section 8-11-17 of the Illinois Municipal Code, or
2 Section 20 of the Telecommunications Infrastructure
3 Maintenance Fee Act as shown on the list described in Section
4 5-25 of this Act, then the equivalent portion of revenues
5 collected from the tax authorized by this Act shall be deemed
6 pledged or dedicated in a manner substantially similar to the
7 pledge of the then existing taxes so as to prevent disruption
8 of such contract.

9 Section 5-60. Waiver of franchise fees.

10 (a) Any municipality shall be deemed to have waived its
11 right to receive all fees, charges and other compensation
12 that might accrue to the municipality after the effective
13 date of this Act, under any franchise agreement, license, or
14 similar agreement, executed on or before January 1, 1998 with
15 telecommunications retailers if:

16 (1) the municipality imposes the tax authorized by
17 this Act at a rate exceeding 5%;

18 (2) the municipality affirmatively waives such
19 fees; or

20 (3) the municipality is included in the list
21 described in Section 5-25 of this Act as having an
22 infrastructure maintenance fee in place.

23 (b) This waiver shall be effective only during the time
24 that either the infrastructure maintenance fee or the
25 simplified tax authorized under this Act is subject to being
26 lawfully imposed on the telecommunications retailer,
27 collected by the municipality or the Department, and paid
28 over to the municipality.

29 (c) No portion of this Act shall be construed to have
30 repealed or amended the prohibition on franchise fees or
31 other charges set forth in Section 30 of the
32 Telecommunications Infrastructure Maintenance Fee Act.

1 Section 5-65. Incorporation by reference. On and after
2 January 1, 2003, for municipalities with populations of less
3 than 500,000, all of the provisions of Sections 7, 10, 11,
4 12, 13, 14, 15, 16, 17, 18, and 19 of the Telecommunications
5 Excise Tax Act, Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g,
6 5i, 5j, 6, 6a, 6b, and 6c of the Retailers' Occupation Tax
7 Act, and all the provisions of the Uniform Penalty and
8 Interest Act, which are not inconsistent with this Act, shall
9 apply, as far as practicable, to the subject matter of this
10 Act to the same extent as if such provisions were included
11 herein. References in such incorporated Sections of the
12 Retailers' Occupation Tax Act to retailers, to sellers, or to
13 persons engaged in the business of selling tangible personal
14 property mean retailers, as defined in this Act, or persons
15 engaged in the act or privilege of originating or receiving
16 telecommunications. References in such incorporated Sections
17 of the Retailers' Occupation Tax Act to purchasers of
18 tangible personal property mean purchasers of
19 telecommunications as defined in this Act. References in
20 such incorporated Sections of the Retailers' Occupation Tax
21 Act to sales of tangible personal property mean the act or
22 privilege of originating or receiving telecommunications as
23 defined in this Act.

24 Section 5-90. Home rule. The authorization to impose
25 municipal telecommunications taxes and fees is an exclusive
26 power and function of the State. A home rule municipality
27 may not impose municipal telecommunications taxes and fees
28 other than as authorized under this Act. This Act is a
29 denial and limitation of municipal home rule powers and
30 functions under subsection (g) of Section 6 of Article VII of
31 the Illinois Constitution.

1 Section 90-5. The State Revenue Sharing Act is amended
2 by changing Section 12 as follows:

3 (30 ILCS 115/12) (from Ch. 85, par. 616)

4 Sec. 12. Personal Property Tax Replacement Fund. There
5 is hereby created the Personal Property Tax Replacement Fund,
6 a special fund in the State Treasury into which shall be paid
7 all revenue realized:

8 (a) all amounts realized from the additional personal
9 property tax replacement income tax imposed by subsections
10 (c) and (d) of Section 201 of the Illinois Income Tax Act,
11 except for those amounts deposited into the Income Tax Refund
12 Fund pursuant to subsection (c) of Section 901 of the
13 Illinois Income Tax Act; and

14 (b) all amounts realized from the additional personal
15 property replacement invested capital taxes imposed by
16 Section 2a.1 of the Messages Tax Act, Section 2a.1 of the Gas
17 Revenue Tax Act, Section 2a.1 of the Public Utilities
18 Revenue Act, and Section 3 of the Water Company Invested
19 Capital Tax Act, and amounts payable to the Department of
20 Revenue under the Telecommunications Municipal Infrastructure
21 Maintenance Fee Act.

22 As soon as may be after the end of each month, the
23 Department of Revenue shall certify to the Treasurer and the
24 Comptroller the amount of all refunds paid out of the General
25 Revenue Fund through the preceding month on account of
26 overpayment of liability on taxes paid into the Personal
27 Property Tax Replacement Fund. Upon receipt of such
28 certification, the Treasurer and the Comptroller shall
29 transfer the amount so certified from the Personal Property
30 Tax Replacement Fund into the General Revenue Fund.

31 The payments of revenue into the Personal Property Tax
32 Replacement Fund shall be used exclusively for distribution
33 to taxing districts as provided in this Section, payment of

1 the expenses of the Department of Revenue incurred in
2 administering the collection and distribution of monies paid
3 into the Personal Property Tax Replacement Fund and transfers
4 due to refunds to taxpayers for overpayment of liability for
5 taxes paid into the Personal Property Tax Replacement Fund.

6 As soon as may be after the effective date of this
7 amendatory Act of 1980, the Department of Revenue shall
8 certify to the Treasurer the amount of net replacement
9 revenue paid into the General Revenue Fund prior to that
10 effective date from the additional tax imposed by Section
11 2a.1 of the Messages Tax Act; Section 2a.1 of the Gas Revenue
12 Tax Act; Section 2a.1 of the Public Utilities Revenue Act;
13 Section 3 of the Water Company Invested Capital Tax Act;
14 amounts collected by the Department of Revenue under the
15 Telecommunications Municipal Infrastructure Maintenance Fee
16 Act; and the additional personal property tax replacement
17 income tax imposed by the Illinois Income Tax Act, as amended
18 by Public Act 81-1st Special Session-1. Net replacement
19 revenue shall be defined as the total amount paid into and
20 remaining in the General Revenue Fund as a result of those
21 Acts minus the amount outstanding and obligated from the
22 General Revenue Fund in state vouchers or warrants prior to
23 the effective date of this amendatory Act of 1980 as refunds
24 to taxpayers for overpayment of liability under those Acts.

25 All interest earned by monies accumulated in the Personal
26 Property Tax Replacement Fund shall be deposited in such
27 Fund. All amounts allocated pursuant to this Section are
28 appropriated on a continuing basis.

29 Prior to December 31, 1980, as soon as may be after the
30 end of each quarter beginning with the quarter ending
31 December 31, 1979, and on and after December 31, 1980, as
32 soon as may be after January 1, March 1, April 1, May 1, July
33 1, August 1, October 1 and December 1 of each year, the
34 Department of Revenue shall allocate to each taxing district

1 as defined in Section 1-150 of the Property Tax Code, in
2 accordance with the provisions of paragraph (2) of this
3 Section the portion of the funds held in the Personal
4 Property Tax Replacement Fund which is required to be
5 distributed, as provided in paragraph (1), for each quarter.
6 Provided, however, under no circumstances shall any taxing
7 district during each of the first two years of distribution
8 of the taxes imposed by this amendatory Act of 1979 be
9 entitled to an annual allocation which is less than the funds
10 such taxing district collected from the 1978 personal
11 property tax. Provided further that under no circumstances
12 shall any taxing district during the third year of
13 distribution of the taxes imposed by this amendatory Act of
14 1979 receive less than 60% of the funds such taxing district
15 collected from the 1978 personal property tax. In the event
16 that the total of the allocations made as above provided for
17 all taxing districts, during either of such 3 years, exceeds
18 the amount available for distribution the allocation of each
19 taxing district shall be proportionately reduced. Except as
20 provided in Section 13 of this Act, the Department shall then
21 certify, pursuant to appropriation, such allocations to the
22 State Comptroller who shall pay over to the several taxing
23 districts the respective amounts allocated to them.

24 Any township which receives an allocation based in whole
25 or in part upon personal property taxes which it levied
26 pursuant to Section 6-507 or 6-512 of the Illinois Highway
27 Code and which was previously required to be paid over to a
28 municipality shall immediately pay over to that municipality
29 a proportionate share of the personal property replacement
30 funds which such township receives.

31 Any municipality or township, other than a municipality
32 with a population in excess of 500,000, which receives an
33 allocation based in whole or in part on personal property
34 taxes which it levied pursuant to Sections 3-1, 3-4 and 3-6

1 of the Illinois Local Library Act and which was previously
2 required to be paid over to a public library shall
3 immediately pay over to that library a proportionate share of
4 the personal property tax replacement funds which such
5 municipality or township receives; provided that if such a
6 public library has converted to a library organized under The
7 Illinois Public Library District Act, regardless of whether
8 such conversion has occurred on, after or before January 1,
9 1988, such proportionate share shall be immediately paid over
10 to the library district which maintains and operates the
11 library. However, any library that has converted prior to
12 January 1, 1988, and which hitherto has not received the
13 personal property tax replacement funds, shall receive such
14 funds commencing on January 1, 1988.

15 Any township which receives an allocation based in whole
16 or in part on personal property taxes which it levied
17 pursuant to Section 1c of the Public Graveyards Act and which
18 taxes were previously required to be paid over to or used for
19 such public cemetery or cemeteries shall immediately pay over
20 to or use for such public cemetery or cemeteries a
21 proportionate share of the personal property tax replacement
22 funds which the township receives.

23 Any taxing district which receives an allocation based in
24 whole or in part upon personal property taxes which it levied
25 for another governmental body or school district in Cook
26 County in 1976 or for another governmental body or school
27 district in the remainder of the State in 1977 shall
28 immediately pay over to that governmental body or school
29 district the amount of personal property replacement funds
30 which such governmental body or school district would receive
31 directly under the provisions of paragraph (2) of this
32 Section, had it levied its own taxes.

33 (1) The portion of the Personal Property Tax Replacement
34 Fund required to be distributed as of the time allocation is

1 required to be made shall be the amount available in such
2 Fund as of the time allocation is required to be made.

3 The amount available for distribution shall be the total
4 amount in the fund at such time minus the necessary
5 administrative expenses as limited by the appropriation and
6 the amount determined by: (a) \$2.8 million for fiscal year
7 1981; (b) for fiscal year 1982, .54% of the funds distributed
8 from the fund during the preceding fiscal year; (c) for
9 fiscal year 1983 through fiscal year 1988, .54% of the funds
10 distributed from the fund during the preceding fiscal year
11 less .02% of such fund for fiscal year 1983 and less .02% of
12 such funds for each fiscal year thereafter, or (d) for fiscal
13 year 1989 and beyond no more than 105% of the actual
14 administrative expenses of the prior fiscal year. Such
15 portion of the fund shall be determined after the transfer
16 into the General Revenue Fund due to refunds, if any, paid
17 from the General Revenue Fund during the preceding quarter.
18 If at any time, for any reason, there is insufficient amount
19 in the Personal Property Tax Replacement Fund for payment of
20 costs of administration or for transfers due to refunds at
21 the end of any particular month, the amount of such
22 insufficiency shall be carried over for the purposes of
23 transfers into the General Revenue Fund and for purposes of
24 costs of administration to the following month or months.
25 Net replacement revenue held, and defined above, shall be
26 transferred by the Treasurer and Comptroller to the Personal
27 Property Tax Replacement Fund within 10 days of such
28 certification.

29 (2) Each quarterly allocation shall first be apportioned
30 in the following manner: 51.65% for taxing districts in Cook
31 County and 48.35% for taxing districts in the remainder of
32 the State.

33 The Personal Property Replacement Ratio of each taxing
34 district outside Cook County shall be the ratio which the Tax

1 Base of that taxing district bears to the Downstate Tax Base.
2 The Tax Base of each taxing district outside of Cook County
3 is the personal property tax collections for that taxing
4 district for the 1977 tax year. The Downstate Tax Base is
5 the personal property tax collections for all taxing
6 districts in the State outside of Cook County for the 1977
7 tax year. The Department of Revenue shall have authority to
8 review for accuracy and completeness the personal property
9 tax collections for each taxing district outside Cook County
10 for the 1977 tax year.

11 The Personal Property Replacement Ratio of each Cook
12 County taxing district shall be the ratio which the Tax Base
13 of that taxing district bears to the Cook County Tax Base.
14 The Tax Base of each Cook County taxing district is the
15 personal property tax collections for that taxing district
16 for the 1976 tax year. The Cook County Tax Base is the
17 personal property tax collections for all taxing districts in
18 Cook County for the 1976 tax year. The Department of Revenue
19 shall have authority to review for accuracy and completeness
20 the personal property tax collections for each taxing
21 district within Cook County for the 1976 tax year.

22 For all purposes of this Section 12, amounts paid to a
23 taxing district for such tax years as may be applicable by a
24 foreign corporation under the provisions of Section 7-202 of
25 the Public Utilities Act, as amended, shall be deemed to be
26 personal property taxes collected by such taxing district for
27 such tax years as may be applicable. The Director shall
28 determine from the Illinois Commerce Commission, for any tax
29 year as may be applicable, the amounts so paid by any such
30 foreign corporation to any and all taxing districts. The
31 Illinois Commerce Commission shall furnish such information
32 to the Director. For all purposes of this Section 12, the
33 Director shall deem such amounts to be collected personal
34 property taxes of each such taxing district for the

1 applicable tax year or years.

2 Taxing districts located both in Cook County and in one
3 or more other counties shall receive both a Cook County
4 allocation and a Downstate allocation determined in the same
5 way as all other taxing districts.

6 If any taxing district in existence on July 1, 1979
7 ceases to exist, or discontinues its operations, its Tax Base
8 shall thereafter be deemed to be zero. If the powers, duties
9 and obligations of the discontinued taxing district are
10 assumed by another taxing district, the Tax Base of the
11 discontinued taxing district shall be added to the Tax Base
12 of the taxing district assuming such powers, duties and
13 obligations.

14 If two or more taxing districts in existence on July 1,
15 1979, or a successor or successors thereto shall consolidate
16 into one taxing district, the Tax Base of such consolidated
17 taxing district shall be the sum of the Tax Bases of each of
18 the taxing districts which have consolidated.

19 If a single taxing district in existence on July 1, 1979,
20 or a successor or successors thereto shall be divided into
21 two or more separate taxing districts, the tax base of the
22 taxing district so divided shall be allocated to each of the
23 resulting taxing districts in proportion to the then current
24 equalized assessed value of each resulting taxing district.

25 If a portion of the territory of a taxing district is
26 disconnected and annexed to another taxing district of the
27 same type, the Tax Base of the taxing district from which
28 disconnection was made shall be reduced in proportion to the
29 then current equalized assessed value of the disconnected
30 territory as compared with the then current equalized
31 assessed value within the entire territory of the taxing
32 district prior to disconnection, and the amount of such
33 reduction shall be added to the Tax Base of the taxing
34 district to which annexation is made.

1 If a community college district is created after July 1,
2 1979, beginning on the effective date of this amendatory Act
3 of 1995, its Tax Base shall be 3.5% of the sum of the
4 personal property tax collected for the 1977 tax year within
5 the territorial jurisdiction of the district.

6 The amounts allocated and paid to taxing districts
7 pursuant to the provisions of this amendatory Act of 1979
8 shall be deemed to be substitute revenues for the revenues
9 derived from taxes imposed on personal property pursuant to
10 the provisions of the "Revenue Act of 1939" or "An Act for
11 the assessment and taxation of private car line companies",
12 approved July 22, 1943, as amended, or Section 414 of the
13 Illinois Insurance Code, prior to the abolition of such taxes
14 and shall be used for the same purposes as the revenues
15 derived from ad valorem taxes on real estate.

16 Monies received by any taxing districts from the Personal
17 Property Tax Replacement Fund shall be first applied toward
18 payment of the proportionate amount of debt service which was
19 previously levied and collected from extensions against
20 personal property on bonds outstanding as of December 31,
21 1978 and next applied toward payment of the proportionate
22 share of the pension or retirement obligations of the taxing
23 district which were previously levied and collected from
24 extensions against personal property. For each such
25 outstanding bond issue, the County Clerk shall determine the
26 percentage of the debt service which was collected from
27 extensions against real estate in the taxing district for
28 1978 taxes payable in 1979, as related to the total amount of
29 such levies and collections from extensions against both real
30 and personal property. For 1979 and subsequent years' taxes,
31 the County Clerk shall levy and extend taxes against the real
32 estate of each taxing district which will yield the said
33 percentage or percentages of the debt service on such
34 outstanding bonds. The balance of the amount necessary to

1 fully pay such debt service shall constitute a first and
2 prior lien upon the monies received by each such taxing
3 district through the Personal Property Tax Replacement Fund
4 and shall be first applied or set aside for such purpose. In
5 counties having fewer than 3,000,000 inhabitants, the
6 amendments to this paragraph as made by this amendatory Act
7 of 1980 shall be first applicable to 1980 taxes to be
8 collected in 1981.

9 (Source: P.A. 89-327, eff. 1-1-96; 90-154, eff. 1-1-98.)

10 Section 90-10. The Telecommunications Excise Tax Act is
11 amended by changing Sections 2, 6, and 15 as follows:

12 (35 ILCS 630/2) (from Ch. 120, par. 2002)

13 (Text of Section before amendment by P.A. 92-474)

14 Sec. 2. As used in this Article, unless the context
15 clearly requires otherwise:

16 (a) "Gross charge" means the amount paid for the act or
17 privilege of originating or receiving telecommunications in
18 this State and for all services and equipment provided in
19 connection therewith by a retailer, valued in money whether
20 paid in money or otherwise, including cash, credits, services
21 and property of every kind or nature, and shall be determined
22 without any deduction on account of the cost of such
23 telecommunications, the cost of materials used, labor or
24 service costs or any other expense whatsoever. In case
25 credit is extended, the amount thereof shall be included only
26 as and when paid. "Gross charges" for private line service
27 shall include charges imposed at each channel point within
28 this State, charges for the channel mileage between each
29 channel point within this State, and charges for that portion
30 of the interstate inter-office channel provided within
31 Illinois. However, "gross charges" shall not include:

32 (1) any amounts added to a purchaser's bill because

1 of a charge made pursuant to (i) the tax imposed by this
2 Article; (ii) charges added to customers' bills pursuant
3 to the provisions of Sections 9-221 or 9-222 of the
4 Public Utilities Act, as amended, or any similar charges
5 added to customers' bills by retailers who are not
6 subject to rate regulation by the Illinois Commerce
7 Commission for the purpose of recovering any of the tax
8 liabilities or other amounts specified in such provisions
9 of such Act; ~~or~~ (iii) the tax imposed by Section 4251 of
10 the Internal Revenue Code; (iv) 911 surcharges; or (v)
11 the tax imposed by the Simplified Municipal
12 Telecommunications Tax Act;

13 (2) charges for a sent collect telecommunication
14 received outside of the State;

15 (3) charges for leased time on equipment or charges
16 for the storage of data or information for subsequent
17 retrieval or the processing of data or information
18 intended to change its form or content. Such equipment
19 includes, but is not limited to, the use of calculators,
20 computers, data processing equipment, tabulating
21 equipment or accounting equipment and also includes the
22 usage of computers under a time-sharing agreement;

23 (4) charges for customer equipment, including such
24 equipment that is leased or rented by the customer from
25 any source, wherein such charges are disaggregated and
26 separately identified from other charges;

27 (5) charges to business enterprises certified under
28 Section 9-222.1 of the Public Utilities Act, as amended,
29 to the extent of such exemption and during the period of
30 time specified by the Department of Commerce and
31 Community Affairs;

32 (6) charges for telecommunications and all services
33 and equipment provided in connection therewith between a
34 parent corporation and its wholly owned subsidiaries or

1 between wholly owned subsidiaries when the tax imposed
2 under this Article has already been paid to a retailer
3 and only to the extent that the charges between the
4 parent corporation and wholly owned subsidiaries or
5 between wholly owned subsidiaries represent expense
6 allocation between the corporations and not the
7 generation of profit for the corporation rendering such
8 service;

9 (7) bad debts. Bad debt means any portion of a debt
10 that is related to a sale at retail for which gross
11 charges are not otherwise deductible or excludable that
12 has become worthless or uncollectable, as determined
13 under applicable federal income tax standards. If the
14 portion of the debt deemed to be bad is subsequently
15 paid, the retailer shall report and pay the tax on that
16 portion during the reporting period in which the payment
17 is made;

18 (8) charges paid by inserting coins in
19 coin-operated telecommunication devices;

20 (9) amounts paid by telecommunications retailers
21 under the Telecommunications Municipal Infrastructure
22 Maintenance Fee Act.

23 (b) "Amount paid" means the amount charged to the
24 taxpayer's service address in this State regardless of where
25 such amount is billed or paid.

26 (c) "Telecommunications", in addition to the meaning
27 ordinarily and popularly ascribed to it, includes, without
28 limitation, messages or information transmitted through use
29 of local, toll and wide area telephone service; private line
30 services; channel services; telegraph services;
31 teletypewriter; computer exchange services; cellular mobile
32 telecommunications service; specialized mobile radio;
33 stationary two way radio; paging service; or any other form
34 of mobile and portable one-way or two-way communications; or

1 any other transmission of messages or information by
2 electronic or similar means, between or among points by wire,
3 cable, fiber-optics, laser, microwave, radio, satellite or
4 similar facilities. As used in this Act, "private line" means
5 a dedicated non-traffic sensitive service for a single
6 customer, that entitles the customer to exclusive or priority
7 use of a communications channel or group of channels, from
8 one or more specified locations to one or more other
9 specified locations. The definition of "telecommunications"
10 shall not include value added services in which computer
11 processing applications are used to act on the form, content,
12 code and protocol of the information for purposes other than
13 transmission. "Telecommunications" shall not include
14 purchases of telecommunications by a telecommunications
15 service provider for use as a component part of the service
16 provided by him to the ultimate retail consumer who
17 originates or terminates the taxable end-to-end
18 communications. Carrier access charges, right of access
19 charges, charges for use of inter-company facilities, and all
20 telecommunications resold in the subsequent provision of,
21 used as a component of, or integrated into end-to-end
22 telecommunications service shall be non-taxable as sales for
23 resale.

24 (d) "Interstate telecommunications" means all
25 telecommunications that either originate or terminate outside
26 this State.

27 (e) "Intrastate telecommunications" means all
28 telecommunications that originate and terminate within this
29 State.

30 (f) "Department" means the Department of Revenue of the
31 State of Illinois.

32 (g) "Director" means the Director of Revenue for the
33 Department of Revenue of the State of Illinois.

34 (h) "Taxpayer" means a person who individually or

1 through his agents, employees or permittees engages in the
2 act or privilege of originating or receiving
3 telecommunications in this State and who incurs a tax
4 liability under this Article.

5 (i) "Person" means any natural individual, firm, trust,
6 estate, partnership, association, joint stock company, joint
7 venture, corporation, limited liability company, or a
8 receiver, trustee, guardian or other representative appointed
9 by order of any court, the Federal and State governments,
10 including State universities created by statute or any city,
11 town, county or other political subdivision of this State.

12 (j) "Purchase at retail" means the acquisition,
13 consumption or use of telecommunication through a sale at
14 retail.

15 (k) "Sale at retail" means the transmitting, supplying
16 or furnishing of telecommunications and all services and
17 equipment provided in connection therewith for a
18 consideration to persons other than the Federal and State
19 governments, and State universities created by statute and
20 other than between a parent corporation and its wholly owned
21 subsidiaries or between wholly owned subsidiaries for their
22 use or consumption and not for resale.

23 (l) "Retailer" means and includes every person engaged
24 in the business of making sales at retail as defined in this
25 Article. The Department may, in its discretion, upon
26 application, authorize the collection of the tax hereby
27 imposed by any retailer not maintaining a place of business
28 within this State, who, to the satisfaction of the
29 Department, furnishes adequate security to insure collection
30 and payment of the tax. Such retailer shall be issued,
31 without charge, a permit to collect such tax. When so
32 authorized, it shall be the duty of such retailer to collect
33 the tax upon all of the gross charges for telecommunications
34 in this State in the same manner and subject to the same

1 requirements as a retailer maintaining a place of business
2 within this State. The permit may be revoked by the
3 Department at its discretion.

4 (m) "Retailer maintaining a place of business in this
5 State", or any like term, means and includes any retailer
6 having or maintaining within this State, directly or by a
7 subsidiary, an office, distribution facilities, transmission
8 facilities, sales office, warehouse or other place of
9 business, or any agent or other representative operating
10 within this State under the authority of the retailer or its
11 subsidiary, irrespective of whether such place of business or
12 agent or other representative is located here permanently or
13 temporarily, or whether such retailer or subsidiary is
14 licensed to do business in this State.

15 (n) "Service address" means the location of
16 telecommunications equipment from which the
17 telecommunications services are originated or at which
18 telecommunications services are received by a taxpayer. In
19 the event this may not be a defined location, as in the case
20 of mobile phones, paging systems, maritime systems,
21 air-to-ground systems and the like, service address shall
22 mean the location of a taxpayer's primary use of the
23 telecommunications equipment as defined by telephone number,
24 authorization code, or location in Illinois where bills are
25 sent.

26 (o) "Prepaid telephone calling arrangements" mean the
27 right to exclusively purchase telephone or telecommunications
28 services that must be paid for in advance and enable the
29 origination of one or more intrastate, interstate, or
30 international telephone calls or other telecommunications
31 using an access number, an authorization code, or both,
32 whether manually or electronically dialed, for which payment
33 to a retailer must be made in advance, provided that, unless
34 recharged, no further service is provided once that prepaid

1 amount of service has been consumed. Prepaid telephone
2 calling arrangements include the recharge of a prepaid
3 calling arrangement. For purposes of this subsection,
4 "recharge" means the purchase of additional prepaid telephone
5 or telecommunications services whether or not the purchaser
6 acquires a different access number or authorization code.
7 "Prepaid telephone calling arrangement" does not include an
8 arrangement whereby a customer purchases a payment card and
9 pursuant to which the service provider reflects the amount of
10 such purchase as a credit on an invoice issued to that
11 customer under an existing subscription plan.

12 (Source: P.A. 90-562, eff. 12-16-97; 91-870, eff. 6-22-00.)

13 (Text of Section after amendment by P.A. 92-474)

14 Sec. 2. As used in this Article, unless the context
15 clearly requires otherwise:

16 (a) "Gross charge" means the amount paid for the act or
17 privilege of originating or receiving telecommunications in
18 this State and for all services and equipment provided in
19 connection therewith by a retailer, valued in money whether
20 paid in money or otherwise, including cash, credits, services
21 and property of every kind or nature, and shall be determined
22 without any deduction on account of the cost of such
23 telecommunications, the cost of materials used, labor or
24 service costs or any other expense whatsoever. In case
25 credit is extended, the amount thereof shall be included only
26 as and when paid. "Gross charges" for private line service
27 shall include charges imposed at each channel point within
28 this State, charges for the channel mileage between each
29 channel point within this State, and charges for that portion
30 of the interstate inter-office channel provided within
31 Illinois. However, "gross charges" shall not include:

32 (1) any amounts added to a purchaser's bill because
33 of a charge made pursuant to (i) the tax imposed by this
34 Article; (ii) charges added to customers' bills pursuant

1 to the provisions of Sections 9-221 or 9-222 of the
 2 Public Utilities Act, as amended, or any similar charges
 3 added to customers' bills by retailers who are not
 4 subject to rate regulation by the Illinois Commerce
 5 Commission for the purpose of recovering any of the tax
 6 liabilities or other amounts specified in such provisions
 7 of such Act; ~~or~~ (iii) the tax imposed by Section 4251 of
 8 the Internal Revenue Code; (iv) 911 surcharges; or (v)
 9 the tax imposed by the Simplified Municipal
 10 Telecommunications Tax Act;

11 (2) charges for a sent collect telecommunication
 12 received outside of the State;

13 (3) charges for leased time on equipment or charges
 14 for the storage of data or information for subsequent
 15 retrieval or the processing of data or information
 16 intended to change its form or content. Such equipment
 17 includes, but is not limited to, the use of calculators,
 18 computers, data processing equipment, tabulating
 19 equipment or accounting equipment and also includes the
 20 usage of computers under a time-sharing agreement;

21 (4) charges for customer equipment, including such
 22 equipment that is leased or rented by the customer from
 23 any source, wherein such charges are disaggregated and
 24 separately identified from other charges;

25 (5) charges to business enterprises certified under
 26 Section 9-222.1 of the Public Utilities Act, as amended,
 27 to the extent of such exemption and during the period of
 28 time specified by the Department of Commerce and
 29 Community Affairs;

30 (6) charges for telecommunications and all services
 31 and equipment provided in connection therewith between a
 32 parent corporation and its wholly owned subsidiaries or
 33 between wholly owned subsidiaries when the tax imposed
 34 under this Article has already been paid to a retailer

1 and only to the extent that the charges between the
2 parent corporation and wholly owned subsidiaries or
3 between wholly owned subsidiaries represent expense
4 allocation between the corporations and not the
5 generation of profit for the corporation rendering such
6 service;

7 (7) bad debts. Bad debt means any portion of a debt
8 that is related to a sale at retail for which gross
9 charges are not otherwise deductible or excludable that
10 has become worthless or uncollectable, as determined
11 under applicable federal income tax standards. If the
12 portion of the debt deemed to be bad is subsequently
13 paid, the retailer shall report and pay the tax on that
14 portion during the reporting period in which the payment
15 is made;

16 (8) charges paid by inserting coins in
17 coin-operated telecommunication devices;

18 (9) amounts paid by telecommunications retailers
19 under the Telecommunications Municipal Infrastructure
20 Maintenance Fee Act.

21 (b) "Amount paid" means the amount charged to the
22 taxpayer's service address in this State regardless of where
23 such amount is billed or paid.

24 (c) "Telecommunications", in addition to the meaning
25 ordinarily and popularly ascribed to it, includes, without
26 limitation, messages or information transmitted through use
27 of local, toll and wide area telephone service; private line
28 services; channel services; telegraph services;
29 teletypewriter; computer exchange services; cellular mobile
30 telecommunications service; specialized mobile radio;
31 stationary two way radio; paging service; or any other form
32 of mobile and portable one-way or two-way communications; or
33 any other transmission of messages or information by
34 electronic or similar means, between or among points by wire,

1 cable, fiber-optics, laser, microwave, radio, satellite or
2 similar facilities. As used in this Act, "private line" means
3 a dedicated non-traffic sensitive service for a single
4 customer, that entitles the customer to exclusive or priority
5 use of a communications channel or group of channels, from
6 one or more specified locations to one or more other
7 specified locations. The definition of "telecommunications"
8 shall not include value added services in which computer
9 processing applications are used to act on the form, content,
10 code and protocol of the information for purposes other than
11 transmission. "Telecommunications" shall not include
12 purchases of telecommunications by a telecommunications
13 service provider for use as a component part of the service
14 provided by him to the ultimate retail consumer who
15 originates or terminates the taxable end-to-end
16 communications. Carrier access charges, right of access
17 charges, charges for use of inter-company facilities, and all
18 telecommunications resold in the subsequent provision of,
19 used as a component of, or integrated into end-to-end
20 telecommunications service shall be non-taxable as sales for
21 resale.

22 (d) "Interstate telecommunications" means all
23 telecommunications that either originate or terminate outside
24 this State.

25 (e) "Intrastate telecommunications" means all
26 telecommunications that originate and terminate within this
27 State.

28 (f) "Department" means the Department of Revenue of the
29 State of Illinois.

30 (g) "Director" means the Director of Revenue for the
31 Department of Revenue of the State of Illinois.

32 (h) "Taxpayer" means a person who individually or
33 through his agents, employees or permittees engages in the
34 act or privilege of originating or receiving

1 telecommunications in this State and who incurs a tax
2 liability under this Article.

3 (i) "Person" means any natural individual, firm, trust,
4 estate, partnership, association, joint stock company, joint
5 venture, corporation, limited liability company, or a
6 receiver, trustee, guardian or other representative appointed
7 by order of any court, the Federal and State governments,
8 including State universities created by statute or any city,
9 town, county or other political subdivision of this State.

10 (j) "Purchase at retail" means the acquisition,
11 consumption or use of telecommunication through a sale at
12 retail.

13 (k) "Sale at retail" means the transmitting, supplying
14 or furnishing of telecommunications and all services and
15 equipment provided in connection therewith for a
16 consideration to persons other than the Federal and State
17 governments, and State universities created by statute and
18 other than between a parent corporation and its wholly owned
19 subsidiaries or between wholly owned subsidiaries for their
20 use or consumption and not for resale.

21 (l) "Retailer" means and includes every person engaged
22 in the business of making sales at retail as defined in this
23 Article. The Department may, in its discretion, upon
24 application, authorize the collection of the tax hereby
25 imposed by any retailer not maintaining a place of business
26 within this State, who, to the satisfaction of the
27 Department, furnishes adequate security to insure collection
28 and payment of the tax. Such retailer shall be issued,
29 without charge, a permit to collect such tax. When so
30 authorized, it shall be the duty of such retailer to collect
31 the tax upon all of the gross charges for telecommunications
32 in this State in the same manner and subject to the same
33 requirements as a retailer maintaining a place of business
34 within this State. The permit may be revoked by the

1 Department at its discretion.

2 (m) "Retailer maintaining a place of business in this
3 State", or any like term, means and includes any retailer
4 having or maintaining within this State, directly or by a
5 subsidiary, an office, distribution facilities, transmission
6 facilities, sales office, warehouse or other place of
7 business, or any agent or other representative operating
8 within this State under the authority of the retailer or its
9 subsidiary, irrespective of whether such place of business or
10 agent or other representative is located here permanently or
11 temporarily, or whether such retailer or subsidiary is
12 licensed to do business in this State.

13 (n) "Service address" means the location of
14 telecommunications equipment from which the
15 telecommunications services are originated or at which
16 telecommunications services are received by a taxpayer. In
17 the event this may not be a defined location, as in the case
18 of mobile phones, paging systems, maritime systems, service
19 address means the customer's place of primary use as defined
20 in the Mobile Telecommunications Sourcing Conformity Act.
21 For air-to-ground systems and the like, service address shall
22 mean the location of a taxpayer's primary use of the
23 telecommunications equipment as defined by telephone number,
24 authorization code, or location in Illinois where bills are
25 sent.

26 (o) "Prepaid telephone calling arrangements" mean the
27 right to exclusively purchase telephone or telecommunications
28 services that must be paid for in advance and enable the
29 origination of one or more intrastate, interstate, or
30 international telephone calls or other telecommunications
31 using an access number, an authorization code, or both,
32 whether manually or electronically dialed, for which payment
33 to a retailer must be made in advance, provided that, unless
34 recharged, no further service is provided once that prepaid

1 amount of service has been consumed. Prepaid telephone
 2 calling arrangements include the recharge of a prepaid
 3 calling arrangement. For purposes of this subsection,
 4 "recharge" means the purchase of additional prepaid telephone
 5 or telecommunications services whether or not the purchaser
 6 acquires a different access number or authorization code.
 7 "Prepaid telephone calling arrangement" does not include an
 8 arrangement whereby a customer purchases a payment card and
 9 pursuant to which the service provider reflects the amount of
 10 such purchase as a credit on an invoice issued to that
 11 customer under an existing subscription plan.

12 (Source: P.A. 91-870, eff. 6-22-00; 92-474, eff. 8-1-02.)

13 (35 ILCS 630/6) (from Ch. 120, par. 2006)

14 Sec. 6. Except as provided hereinafter in this Section,
 15 on or before the last 15th day of each month, each retailer
 16 maintaining a place of business in this State shall make a
 17 return to the Department for the preceding calendar month,
 18 stating:

- 19 1. His name;
- 20 2. The address of his principal place of business,
 21 or and the address of the principal place of business (if
 22 that is a different address) from which he engages in the
 23 business of transmitting telecommunications;
- 24 3. Total amount of gross charges billed by him
 25 during the preceding calendar month for providing
 26 telecommunications during such calendar month;
- 27 4. Total amount received by him during the
 28 preceding calendar month on credit extended;
- 29 5. Deductions allowed by law;
- 30 6. Gross charges which were billed by him during
 31 the preceding calendar month and upon the basis of which
 32 the tax is imposed;
- 33 7. Amount of tax (computed upon Item 6);

1 8. Such other reasonable information as the
2 Department may require.

3 Any taxpayer required to make payments under this Section
4 may make the payments by electronic funds transfer. The
5 Department shall adopt rules necessary to effectuate a
6 program of electronic funds transfer. Any taxpayer who has
7 average monthly tax billings due to the Department under this
8 Act and the Simplified Municipal Telecommunications Tax Act
9 that exceed \$1,000 shall make all payments by electronic
10 funds transfer as required by rules of the Department and
11 shall file the return required by this Section by electronic
12 means as required by rules of the Department.

13 If the retailer's average monthly tax billings due to the
14 Department under this Act and the Simplified Municipal
15 Telecommunications Tax Act do not exceed \$1,000 \$200, the
16 Department may authorize his returns to be filed on a quarter
17 annual basis, with the return for January, February and March
18 of a given year being due by April 30 15 of such year; with
19 the return for April, May and June of a given year being due
20 by July 31st 15 of such year; with the return for July,
21 August and September of a given year being due by October
22 31st 15 of such year; and with the return of October,
23 November and December of a given year being due by January
24 31st 15 of the following year.

25 If the retailer is otherwise required to file a monthly
26 or quarterly return and if the retailer's average monthly tax
27 billings due to the Department under this Act and the
28 Simplified Municipal Telecommunications Tax Act do not exceed
29 \$400 \$50, the Department may authorize his or her return to
30 be filed on an annual basis, with the return for a given year
31 being due by January 31st 15th of the following year.

32 Notwithstanding any other provision of this Article
33 containing the time within which a retailer may file his
34 return, in the case of any retailer who ceases to engage in a

1 kind of business which makes him responsible for filing
2 returns under this Article, such retailer shall file a final
3 return under this Article with the Department not more than
4 one month after discontinuing such business.

5 In making such return, the retailer shall determine the
6 value of any consideration other than money received by him
7 and he shall include such value in his return. Such
8 determination shall be subject to review and revision by the
9 Department in the manner hereinafter provided for the
10 correction of returns.

11 Each retailer whose average monthly liability to the
12 Department under this Article and the Simplified Municipal
13 Telecommunications Tax Act was \$25,000 ~~\$10,000~~ or more during
14 the preceding calendar year, excluding the month of highest
15 liability and the month of lowest liability in such calendar
16 year, and who is not operated by a unit of local government,
17 shall make estimated payments to the Department on or before
18 the 7th, 15th, 22nd and last day of the month during which
19 tax collection liability to the Department is incurred in an
20 amount not less than the lower of either 22.5% of the
21 retailer's actual tax collections for the month or 25% of the
22 retailer's actual tax collections for the same calendar month
23 of the preceding year. The amount of such quarter monthly
24 payments shall be credited against the final liability of the
25 retailer's return for that month. Any outstanding credit,
26 approved by the Department, arising from the retailer's
27 overpayment of its final liability for any month may be
28 applied to reduce the amount of any subsequent quarter
29 monthly payment or credited against the final liability of
30 the retailer's return for any subsequent month. If any
31 quarter monthly payment is not paid at the time or in the
32 amount required by this Section, the retailer shall be liable
33 for penalty and interest on the difference between the
34 minimum amount due as a payment and the amount of such

1 payment actually and timely paid, except insofar as the
2 retailer has previously made payments for that month to the
3 Department in excess of the minimum payments previously due.

4 If--the--Director-finds-that-the-information-required-for
5 the--making--of--an--accurate--return--cannot--reasonably--be
6 compiled-by-a-retailer-within-15-days-after-the-close-of--the
7 calendar-month-for-which-a-return-is-to-be-made,-he-may-grant
8 an--extension--of--time--for--the-filing-of-such-return-for-a
9 period-of-not-to-exceed-31-calendar-days.---The--granting--of
10 such--an-extension-may-be-conditioned-upon-the-deposit-by-the
11 retailer-with-the--Department--of--an--amount--of--money--not
12 exceeding-the-amount-estimated-by-the-Director-to-be-due-with
13 the--return--so--extended.---All-such-deposits,-including-any
14 heretofore--made--with--the--Department,-shall--be--credited
15 against-the-retailer's-liabilities-under--this--Article.---If
16 any--such-deposit-exceeds-the-retailer's-present-and-probable
17 future-liabilities-under-this-Article,-the--Department--shall
18 issue--to--the--retailer--a--credit--memorandum,-which-may-be
19 assigned-by-the-retailer-to-a--similar--retailer--under--this
20 Article,-in-accordance-with-reasonable-rules-and-regulations
21 to-be-prescribed-by-the-Department.

22 The retailer making the return herein provided for shall,
23 at the time of making such return, pay to the Department the
24 amount of tax herein imposed, less a discount of 1% which is
25 allowed to reimburse the retailer for the expenses incurred
26 in keeping records, billing the customer, preparing and
27 filing returns, remitting the tax, and supplying data to the
28 Department upon request. No discount may be claimed by a
29 retailer on returns not timely filed and for taxes not timely
30 remitted. On and after the effective date of this Article of
31 1985, \$1,000,000 of the moneys received by the Department of
32 Revenue pursuant to this Article shall be paid each month
33 into the Common School Fund and the remainder into the
34 General Revenue Fund. On and after February 1, 1998, however,

1 of the moneys received by the Department of Revenue pursuant
2 to the additional taxes imposed by this amendatory Act of
3 1997 one-half shall be deposited into the School
4 Infrastructure Fund and one-half shall be deposited into the
5 Common School Fund. On and after the effective date of this
6 amendatory Act of the 91st General Assembly, if in any fiscal
7 year the total of the moneys deposited into the School
8 Infrastructure Fund under this Act is less than the total of
9 the moneys deposited into that Fund from the additional taxes
10 imposed by Public Act 90-548 during fiscal year 1999, then,
11 as soon as possible after the close of the fiscal year, the
12 Comptroller shall order transferred and the Treasurer shall
13 transfer from the General Revenue Fund to the School
14 Infrastructure Fund an amount equal to the difference between
15 the fiscal year total deposits and the total amount deposited
16 into the Fund in fiscal year 1999.

17 (Source: P.A. 90-16, eff. 6-16-97; 90-548, eff. 12-4-97;
18 91-541, eff. 8-13-99; 91-870, 6-22-00.)

19 (35 ILCS 630/15) (from Ch. 120, par. 2015)

20 Sec. 15. Confidential information. All information
21 received by the Department from returns filed under this
22 Article, or from any investigations conducted under this
23 Article, shall be confidential, except for official purposes,
24 and any person who divulges any such information in any
25 manner, except in accordance with a proper judicial order or
26 as otherwise provided by law, shall be guilty of a Class B
27 misdemeanor.

28 Provided, that nothing contained in this Article shall
29 prevent the Director from publishing or making available to
30 the public the names and addresses of retailers or taxpayers
31 filing returns under this Article, or from publishing or
32 making available reasonable statistics concerning the
33 operation of the tax wherein the contents of returns are

1 grouped into aggregates in such a way that the information
2 contained in any individual return shall not be disclosed.

3 And provided, that nothing contained in this Article
4 shall prevent the Director from making available to the
5 United States Government or the government of any other
6 state, or any officer or agency thereof, for exclusively
7 official purposes, information received by the Department in
8 the administration of this Article, if such other
9 governmental agency agrees to divulge requested tax
10 information to the Department.

11 The furnishing upon request of the Auditor General, or
12 his authorized agents, for official use, of returns filed and
13 information related thereto under this Article is deemed to
14 be an official purpose within the meaning of this Section.

15 The furnishing of financial information to a municipality
16 that has imposed a tax under the Simplified Municipal
17 Telecommunications Tax Act, upon request of the chief
18 executive thereof, is an official purpose within the meaning
19 of this Section, provided that the municipality agrees in
20 writing to the requirements of this Section. Information so
21 provided shall be subject to all confidentiality provisions
22 of this Section. The written agreement shall provide for
23 reciprocity, limitations on access, disclosure, and
24 procedures for requesting information.

25 The Director shall make available for public inspection
26 in the Department's principal office and for publication, at
27 cost, administrative decisions issued on or after January 1,
28 1995. These decisions are to be made available in a manner so
29 that the following taxpayer information is not disclosed:

30 (1) The names, addresses, and identification
31 numbers of the taxpayer, related entities, and employees.

32 (2) At the sole discretion of the Director, trade
33 secrets or other confidential information identified as
34 such by the taxpayer, no later than 30 days after receipt

1 of an administrative decision, by such means as the
2 Department shall provide by rule.

3 The Director shall determine the appropriate extent of
4 the deletions allowed in paragraph (2). In the event the
5 taxpayer does not submit deletions, the Director shall make
6 only the deletions specified in paragraph (1).

7 The Director shall make available for public inspection
8 and publication an administrative decision within 180 days
9 after the issuance of the administrative decision. The term
10 "administrative decision" has the same meaning as defined in
11 Section 3-101 of Article III of the Code of Civil Procedure.
12 Costs collected under this Section shall be paid into the Tax
13 Compliance and Administration Fund.

14 Nothing contained in this Act shall prevent the Director
15 from divulging information to any person pursuant to a
16 request or authorization made by the taxpayer or by an
17 authorized representative of the taxpayer.

18 (Source: P.A. 90-491, eff. 1-1-98.)

19 Section 90-15. The Telecommunications Municipal
20 Infrastructure Maintenance Fee Act is amended by changing
21 Sections 1, 5, 10, 15, 20, 25, 27, 27.35, 30, and 35 as
22 follows:

23 (35 ILCS 635/1)

24 Sec. 1. Short title. This Act may be cited as the
25 Telecommunications Municipal Infrastructure Maintenance Fee
26 Act.

27 (Source: P.A. 90-154, eff. 1-1-98.)

28 (35 ILCS 635/5)

29 Sec. 5. Legislative intent.

30 (a) The General Assembly imposed a tax on invested
31 capital of utilities to partially replace the personal

1 property tax that was abolished by the Illinois Constitution
2 of 1970. Since that tax was imposed, telecommunications
3 retailers have evolved from utility status into an
4 increasingly competitive industry serving the public.

5 (b) This Act is intended to abolish the invested capital
6 tax on telecommunications retailers (that is, persons engaged
7 in the business of transmitting messages and acting as a
8 retailer of telecommunications as defined in Section 2 of the
9 Telecommunications Excise Tax Act). Cellular
10 telecommunications retailers have already been excluded from
11 application of the invested capital tax by earlier
12 legislative action.

13 (c) For the period prior to the effective date of this
14 amendatory Act of the 92nd General Assembly, this Act is also
15 intended to abolish municipal franchise fees with respect to
16 telecommunications retailers, create a uniform system for the
17 collection and distribution of fees associated with the
18 privilege of use of the public right of way for
19 telecommunications activity, and provide municipalities with
20 a comprehensive method of compensation for telecommunications
21 activity including the recovery of reasonable costs of
22 regulating the use of the public rights-of-way for
23 telecommunications activity.

24 (d) For the period from the effective date of this
25 amendatory Act of the 92nd General Assembly through December
26 31, 2002, it is the intent of the General Assembly that the
27 municipal infrastructure maintenance fee and its rate are
28 subject only to the limits prescribed in Section 20, and that
29 the fee and the rate of the fee do not relate to use of the
30 public rights-of-way or the costs associated with maintaining
31 and regulating the use of the public rights-of-way. It is
32 also the intent of the General Assembly that proceeds of the
33 municipal infrastructure maintenance fee may be used for any
34 lawful corporate purpose. It is not the intent of the

1 General Assembly that the municipal infrastructure
 2 maintenance fee is in any way compensation for use of the
 3 public rights-of-way. It is the intent of the General
 4 Assembly that the fee be paid by all telecommunications
 5 retailers, regardless of whether they have equipment in the
 6 public rights-of-way.

7 (e) This amendatory Act of the 92nd General Assembly is
 8 intended to repeal the municipal infrastructure maintenance
 9 fee and the optional infrastructure maintenance fee effective
 10 January 1, 2003.

11 (Source: P.A. 90-154, eff. 1-1-98; 91-533, eff. 8-13-99.)

12 (35 ILCS 635/10)

13 (Text of Section before amendment by P.A. 92-474)

14 Sec. 10. Definitions.

15 (a) "Gross charges" means the amount paid to a
 16 telecommunications retailer for the act or privilege of
 17 originating or receiving telecommunications in this State ~~or~~
 18 ~~the--municipality--imposing--the--fee--under--this--Act,~~ as the
 19 ~~context--requires,~~ and for all services rendered in connection
 20 therewith, valued in money whether paid in money or
 21 otherwise, including cash, credits, services, and property of
 22 every kind or nature, and shall be determined without any
 23 deduction on account of the cost of such telecommunications,
 24 the cost of the materials used, labor or service costs, or
 25 any other expense whatsoever. In case credit is extended,
 26 the amount thereof shall be included only as and when paid.
 27 "Gross charges" for private line service shall include
 28 charges imposed at each channel point within this State ~~or~~
 29 ~~the--municipality--imposing--the--fee--under--this--Act,~~ charges for
 30 the channel mileage between each channel point within this
 31 State ~~or--the--municipality--imposing--the--fee--under--this--Act,~~
 32 and charges for that portion of the interstate inter-office
 33 channel provided within Illinois ~~or--the--municipality--imposing~~

1 the-fee-under-this-Act. However, "gross charges" shall not
2 include:

3 (1) any amounts added to a purchaser's bill because
4 of a charge made under: (i) the fee imposed by this
5 Section, (ii) additional charges added to a purchaser's
6 bill under Section 9-221 or 9-222 of the Public Utilities
7 Act, (iii) ~~amounts collected under Section 8-11-17 of the~~
8 ~~Illinois Municipal Code,~~ (iv) the tax imposed by the
9 Telecommunications Excise Tax Act, (iv) ~~(v)~~ 911
10 surcharges, (v) ~~or (vi)~~ the tax imposed by Section 4251
11 of the Internal Revenue Code, or (vi) the tax imposed by
12 the simplified Municipal Telecommunications Tax Act;

13 (2) charges for a sent collect telecommunication
14 received outside of this State ~~or the municipality~~
15 ~~imposing the fee, as the context requires;~~

16 (3) charges for leased time on equipment or charges
17 for the storage of data or information or subsequent
18 retrieval or the processing of data or information
19 intended to change its form or content. Such equipment
20 includes, but is not limited to, the use of calculators,
21 computers, data processing equipment, tabulating
22 equipment, or accounting equipment and also includes the
23 usage of computers under a time-sharing agreement.

24 (4) charges for customer equipment, including such
25 equipment that is leased or rented by the customer from
26 any source, wherein such charges are disaggregated and
27 separately identified from other charges;

28 (5) charges to business enterprises certified under
29 Section 9-222.1 of the Public Utilities Act to the extent
30 of such exemption and during the period of time specified
31 by the Department of Commerce and Community Affairs ~~or by~~
32 ~~the municipality imposing the fee under the Act,~~ ~~as the~~
33 ~~context requires;~~

34 (6) charges for telecommunications and all services

1 and equipment provided in connection therewith between a
 2 parent corporation and its wholly owned subsidiaries or
 3 between wholly owned subsidiaries, and only to the extent
 4 that the charges between the parent corporation and
 5 wholly owned subsidiaries or between wholly owned
 6 subsidiaries represent expense allocation between the
 7 corporations and not the generation of profit other than
 8 a regulatory required profit for the corporation
 9 rendering such services;

10 (7) bad debts ("bad debt" means any portion of a
 11 debt that is related to a sale at retail for which gross
 12 charges are not otherwise deductible or excludable that
 13 has become worthless or uncollectible, as determined
 14 under applicable federal income tax standards; if the
 15 portion of the debt deemed to be bad is subsequently
 16 paid, the retailer shall report and pay the tax on that
 17 portion during the reporting period in which the payment
 18 is made); or

19 (8) charges paid by inserting coins in
 20 coin-operated telecommunication devices; ~~or~~

21 ~~(9) charges for telecommunications and all services~~
 22 ~~and equipment provided to a municipality imposing the~~
 23 ~~infrastructure maintenance fee.~~

24 (a-5) "Department" means the Illinois Department of
 25 Revenue.

26 (b) "Telecommunications" includes, but is not limited
 27 to, messages or information transmitted through use of local,
 28 toll, and wide area telephone service, channel services,
 29 telegraph services, teletypewriter service, computer exchange
 30 services, private line services, specialized mobile radio
 31 services, or any other transmission of messages or
 32 information by electronic or similar means, between or among
 33 points by wire, cable, fiber optics, laser, microwave, radio,
 34 satellite, or similar facilities. Unless the context clearly

1 requires otherwise, "telecommunications" shall also include
2 wireless telecommunications as hereinafter defined.
3 "Telecommunications" shall not include value added services
4 in which computer processing applications are used to act on
5 the form, content, code, and protocol of the information for
6 purposes other than transmission. "Telecommunications" shall
7 not include purchase of telecommunications by a
8 telecommunications service provider for use as a component
9 part of the service provided by him or her to the ultimate
10 retail consumer who originates or terminates the end-to-end
11 communications. Retailer access charges, right of access
12 charges, charges for use of intercompany facilities, and all
13 telecommunications resold in the subsequent provision and
14 used as a component of, or integrated into, end-to-end
15 telecommunications service shall not be included in gross
16 charges as sales for resale. "Telecommunications" shall not
17 include the provision of cable services through a cable
18 system as defined in the Cable Communications Act of 1984 (47
19 U.S.C. Sections 521 and following) as now or hereafter
20 amended or through an open video system as defined in the
21 Rules of the Federal Communications Commission (47 C.D.F.
22 76.1550 and following) as now or hereafter amended. Beginning
23 January 1, 2001, prepaid telephone calling arrangements shall
24 not be considered "telecommunications" subject to the tax
25 imposed under this Act. For purposes of this Section,
26 "prepaid telephone calling arrangements" means that term as
27 defined in Section 2-27 of the Retailers' Occupation Tax Act.

28 (c) "Wireless telecommunications" includes cellular
29 mobile telephone services, personal wireless services as
30 defined in Section 704(C) of the Telecommunications Act of
31 1996 (Public Law No. 104-104) as now or hereafter amended,
32 including all commercial mobile radio services, and paging
33 services.

34 (d) "Telecommunications retailer" or "retailer" or

1 "carrier" means and includes every person engaged in the
2 business of making sales of telecommunications at retail as
3 defined in this Section. The Illinois Department of--Revenue
4 ~~of--the--municipality--imposing--the--fee,--as--the--case--may--be,~~
5 may, in its discretion, upon applications, authorize the
6 collection of the fee hereby imposed by any retailer not
7 maintaining a place of business within this State, who, to
8 the satisfaction of the Department ~~of--municipality,~~ furnishes
9 adequate security to insure collection and payment of the
10 fee. When so authorized, it shall be the duty of such
11 retailer to pay the fee upon all of the gross charges for
12 telecommunications in the same manner and subject to the same
13 requirements as a retailer maintaining a place of business
14 within this the State ~~of--municipality--imposing--the--fee.~~

15 (e) "Retailer maintaining a place of business in this
16 State", or any like term, means and includes any retailer
17 having or maintaining within this State, directly or by a
18 subsidiary, an office, distribution facilities, transmission
19 facilities, sales office, warehouse, or other place of
20 business, or any agent or other representative operating
21 within this State under the authority of the retailer or its
22 subsidiary, irrespective of whether such place of business or
23 agent or other representative is located here permanently or
24 temporarily, or whether such retailer or subsidiary is
25 licensed to do business in this State.

26 (f) "Sale of telecommunications at retail" means the
27 transmitting, supplying, or furnishing of telecommunications
28 and all services rendered in connection therewith for a
29 consideration, other than between a parent corporation and
30 its wholly owned subsidiaries or between wholly owned
31 subsidiaries, when the gross charge made by one such
32 corporation to another such corporation is not greater than
33 the gross charge paid to the retailer for their use or
34 consumption and not for sale.

1 (g) "Service address" means the location of
 2 telecommunications equipment from which telecommunications
 3 services are originated or at which telecommunications
 4 services are received. If this is not a defined location, as
 5 in the case of wireless telecommunications, paging systems,
 6 maritime systems, air-to-ground systems, and the like,
 7 "service address" shall mean the location of the customer's
 8 primary use of the telecommunications equipment as defined by
 9 the location in Illinois where bills are sent.

10 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;
 11 91-870, eff. 6-22-00.)

12 (Text of Section after amendment by P.A. 92-474)

13 Sec. 10. Definitions.

14 (a) "Gross charges" means the amount paid to a
 15 telecommunications retailer for the act or privilege of
 16 originating or receiving telecommunications in this State ~~or~~
 17 ~~the municipality imposing the fee under this Act,~~ as the
 18 ~~context requires,~~ and for all services rendered in connection
 19 therewith, valued in money whether paid in money or
 20 otherwise, including cash, credits, services, and property of
 21 every kind or nature, and shall be determined without any
 22 deduction on account of the cost of such telecommunications,
 23 the cost of the materials used, labor or service costs, or
 24 any other expense whatsoever. In case credit is extended,
 25 the amount thereof shall be included only as and when paid.
 26 "Gross charges" for private line service shall include
 27 charges imposed at each channel point within this State ~~or~~
 28 ~~the municipality imposing the fee under this Act,~~ charges for
 29 the channel mileage between each channel point within this
 30 State ~~or the municipality imposing the fee under this Act,~~
 31 and charges for that portion of the interstate inter-office
 32 channel provided within Illinois ~~or the municipality imposing~~
 33 ~~the fee under this Act.~~ However, "gross charges" shall not
 34 include:

1 (1) any amounts added to a purchaser's bill because
 2 of a charge made under: (i) the fee imposed by this
 3 Section, (ii) additional charges added to a purchaser's
 4 bill under Section 9-221 or 9-222 of the Public Utilities
 5 Act, (iii) ~~amounts collected under Section 8-11-17 of the~~
 6 ~~Illinois Municipal Code,~~ (iv) the tax imposed by the
 7 Telecommunications Excise Tax Act, (iv) (v) 911
 8 surcharges, (v) ~~or~~ (vi) the tax imposed by Section 4251
 9 of the Internal Revenue Code, or (vi) the tax imposed by
 10 the Simplified Municipal Telecommunications Tax Act;

11 (2) charges for a sent collect telecommunication
 12 received outside of this State ~~or the municipality~~
 13 ~~imposing the fee, as the context requires;~~

14 (3) charges for leased time on equipment or charges
 15 for the storage of data or information or subsequent
 16 retrieval or the processing of data or information
 17 intended to change its form or content. Such equipment
 18 includes, but is not limited to, the use of calculators,
 19 computers, data processing equipment, tabulating
 20 equipment, or accounting equipment and also includes the
 21 usage of computers under a time-sharing agreement;

22 (4) charges for customer equipment, including such
 23 equipment that is leased or rented by the customer from
 24 any source, wherein such charges are disaggregated and
 25 separately identified from other charges;

26 (5) charges to business enterprises certified under
 27 Section 9-222.1 of the Public Utilities Act to the extent
 28 of such exemption and during the period of time specified
 29 by the Department of Commerce and Community Affairs ~~or by~~
 30 ~~the municipality imposing the fee under the Act, as the~~
 31 ~~context requires;~~

32 (6) charges for telecommunications and all services
 33 and equipment provided in connection therewith between a
 34 parent corporation and its wholly owned subsidiaries or

1 between wholly owned subsidiaries, and only to the extent
 2 that the charges between the parent corporation and
 3 wholly owned subsidiaries or between wholly owned
 4 subsidiaries represent expense allocation between the
 5 corporations and not the generation of profit other than
 6 a regulatory required profit for the corporation
 7 rendering such services;

8 (7) bad debts ("bad debt" means any portion of a
 9 debt that is related to a sale at retail for which gross
 10 charges are not otherwise deductible or excludable that
 11 has become worthless or uncollectible, as determined
 12 under applicable federal income tax standards; if the
 13 portion of the debt deemed to be bad is subsequently
 14 paid, the retailer shall report and pay the tax on that
 15 portion during the reporting period in which the payment
 16 is made); or

17 (8) charges paid by inserting coins in
 18 coin-operated telecommunication devices; ~~or~~

19 ~~(9) charges for telecommunications and all services~~
 20 ~~and equipment provided to a municipality imposing the~~
 21 ~~infrastructure maintenance fee.~~

22 (a-5) "Department" means the Illinois Department of
 23 Revenue.

24 (b) "Telecommunications" includes, but is not limited
 25 to, messages or information transmitted through use of local,
 26 toll, and wide area telephone service, channel services,
 27 telegraph services, teletypewriter service, computer exchange
 28 services, private line services, specialized mobile radio
 29 services, or any other transmission of messages or
 30 information by electronic or similar means, between or among
 31 points by wire, cable, fiber optics, laser, microwave, radio,
 32 satellite, or similar facilities. Unless the context clearly
 33 requires otherwise, "telecommunications" shall also include
 34 wireless telecommunications as hereinafter defined.

1 "Telecommunications" shall not include value added services
2 in which computer processing applications are used to act on
3 the form, content, code, and protocol of the information for
4 purposes other than transmission. "Telecommunications" shall
5 not include purchase of telecommunications by a
6 telecommunications service provider for use as a component
7 part of the service provided by him or her to the ultimate
8 retail consumer who originates or terminates the end-to-end
9 communications. Retailer access charges, right of access
10 charges, charges for use of intercompany facilities, and all
11 telecommunications resold in the subsequent provision and
12 used as a component of, or integrated into, end-to-end
13 telecommunications service shall not be included in gross
14 charges as sales for resale. "Telecommunications" shall not
15 include the provision of cable services through a cable
16 system as defined in the Cable Communications Act of 1984 (47
17 U.S.C. Sections 521 and following) as now or hereafter
18 amended or through an open video system as defined in the
19 Rules of the Federal Communications Commission (47 C.D.F.
20 76.1550 and following) as now or hereafter amended. Beginning
21 January 1, 2001, prepaid telephone calling arrangements shall
22 not be considered "telecommunications" subject to the tax
23 imposed under this Act. For purposes of this Section,
24 "prepaid telephone calling arrangements" means that term as
25 defined in Section 2-27 of the Retailers' Occupation Tax Act.

26 (c) "Wireless telecommunications" includes cellular
27 mobile telephone services, personal wireless services as
28 defined in Section 704(C) of the Telecommunications Act of
29 1996 (Public Law No. 104-104) as now or hereafter amended,
30 including all commercial mobile radio services, and paging
31 services.

32 (d) "Telecommunications retailer" or "retailer" or
33 "carrier" means and includes every person engaged in the
34 business of making sales of telecommunications at retail as

1 defined in this Section. The Illinois Department of Revenue
2 ~~of the municipality imposing the fee, as the case may be,~~
3 may, in its discretion, upon applications, authorize the
4 collection of the fee hereby imposed by any retailer not
5 maintaining a place of business within this State, who, to
6 the satisfaction of the Department ~~of municipality,~~ furnishes
7 adequate security to insure collection and payment of the
8 fee. When so authorized, it shall be the duty of such
9 retailer to pay the fee upon all of the gross charges for
10 telecommunications in the same manner and subject to the same
11 requirements as a retailer maintaining a place of business
12 within this the State ~~of municipality imposing the fee.~~

13 (e) "Retailer maintaining a place of business in this
14 State", or any like term, means and includes any retailer
15 having or maintaining within this State, directly or by a
16 subsidiary, an office, distribution facilities, transmission
17 facilities, sales office, warehouse, or other place of
18 business, or any agent or other representative operating
19 within this State under the authority of the retailer or its
20 subsidiary, irrespective of whether such place of business or
21 agent or other representative is located here permanently or
22 temporarily, or whether such retailer or subsidiary is
23 licensed to do business in this State.

24 (f) "Sale of telecommunications at retail" means the
25 transmitting, supplying, or furnishing of telecommunications
26 and all services rendered in connection therewith for a
27 consideration, other than between a parent corporation and
28 its wholly owned subsidiaries or between wholly owned
29 subsidiaries, when the gross charge made by one such
30 corporation to another such corporation is not greater than
31 the gross charge paid to the retailer for their use or
32 consumption and not for sale.

33 (g) "Service address" means the location of
34 telecommunications equipment from which telecommunications

1 services are originated or at which telecommunications
 2 services are received. If this is not a defined location, as
 3 in the case of wireless telecommunications, paging systems,
 4 maritime systems, service address means the customer's place
 5 of primary use as defined in the Mobile Telecommunications
 6 Sourcing Conformity Act. For air-to-ground systems, and the
 7 like, "service address" shall mean the location of the
 8 customer's primary use of the telecommunications equipment as
 9 defined by the location in Illinois where bills are sent.
 10 (Source: P.A. 91-870, eff. 6-22-00; 92-474, eff. 8-1-02.)

11 (35 ILCS 635/15)

12 Sec. 15. State telecommunications infrastructure
 13 maintenance fees.

14 (a) A State infrastructure maintenance fee is hereby
 15 imposed upon telecommunications retailers as a replacement
 16 for the personal property tax in an amount specified in
 17 subsection (b).

18 (b) The amount of the State infrastructure maintenance
 19 fee imposed upon a telecommunications retailer under this
 20 Section shall be equal to 0.5% of all gross charges charged
 21 by the telecommunications retailer to service addresses in
 22 this State for telecommunications, other than wireless
 23 telecommunications, originating or received in this State.
 24 However, the State infrastructure maintenance fee is not
 25 imposed in any case in which the imposition of the fee would
 26 violate the Constitution or statutes of the United States.

27 (c) (Blank). ~~An optional infrastructure maintenance fee~~
 28 ~~is hereby created.--A telecommunications retailer--may--elect~~
 29 ~~to--pay--the--optional--infrastructure--maintenance--fee--with~~
 30 ~~respect---to---the---gross---charges---charged---by---the~~
 31 ~~telecommunications---retailer---to--service--addresses--in--a~~
 32 ~~particular-municipality-for--telecommunications,--other--than~~
 33 ~~wireless--telecommunications,--originating-or-received-in-the~~

1 municipality-if-(1)-the-telecommunications--retailer--is--not
 2 required-to-pay-any-compensation-to-the-municipality-under-an
 3 existing-franchise-agreement-and-(2)-the-municipality-has-not
 4 imposed---a---municipal--infrastructure--maintenance--fee--as
 5 authorized-in-Section-20-of-this--Act.--A--telecommunications
 6 retailer---electing---to---pay--the--optional--infrastructure
 7 maintenance-fee-shall-notify-the-Department-of-such--election
 8 on--the--application--for--certificate--of-registration.-If-a
 9 telecommunications-retailer--elects--to--pay--this--fee--with
 10 respect----to----the----gross----charges---charged---by---the
 11 telecommunications--retailer--to--service--addresses---in---a
 12 particular--municipality,--such-election-shall-remain-in-full
 13 force-and-effect-until-such-time-as-the-municipality--imposes
 14 a-municipal-infrastructure-maintenance-fee.

15 (d) (Blank). The--amount-of-the-optional-infrastructure
 16 maintenance-fee-which-a-telecommunications-retailer-may-elect
 17 to-pay-with-respect-to-a--particular--municipality--shall--be
 18 equal---to--25%--of--the--maximum--amount--of--the--municipal
 19 infrastructure-maintenance-fee-which-the--municipality--could
 20 impose-under-Section-20-of-this-Act.

21 (e) The State infrastructure maintenance fee and the
 22 optional-infrastructure-maintenance-fee authorized by this
 23 Section shall be collected, enforced, and administered as set
 24 forth in subsection (b) of Section 25 of this Act.

25 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97.)

26 (35 ILCS 635/20)

27 Sec. 20. Municipal telecommunications infrastructure
 28 maintenance fee.

29 (a) A municipality may impose a municipal infrastructure
 30 maintenance fee upon telecommunications retailers in an
 31 amount specified in subsection (b). On and after the
 32 effective date of this amendatory Act of 1997, a certified
 33 copy of an ordinance or resolution imposing a fee under this

1 Section shall be filed with the Department within 30 days
2 after the effective date of this amendatory Act or the
3 effective date of the ordinance or resolution imposing such
4 fee, whichever is later. Failure to file a certified copy of
5 the ordinance or resolution imposing a fee under this Section
6 shall have no effect on the validity of the ordinance or
7 resolution. The Department shall create and maintain a list
8 of all ordinances and resolutions filed pursuant to this
9 Section and make that list, as well as copies of the
10 ordinances and resolutions, available to the public for a
11 reasonable fee.

12 (b) The amount of the municipal infrastructure
13 maintenance fee imposed upon a telecommunications retailer
14 under this Section shall not exceed: (i) in a municipality
15 with a population of more than 500,000, 2.0% of all gross
16 charges charged by the telecommunications retailer to service
17 addresses in the municipality for telecommunications
18 originating or received in the municipality; and (ii) in a
19 municipality with a population of 500,000 or less, 1.0% of
20 all gross charges charged by the telecommunications retailer
21 to service addresses in the municipality for
22 telecommunications originating or received in the
23 municipality which fee, for the period commencing on the
24 effective date of this amendatory Act of the 92nd General
25 Assembly through December 31, 2002, may be imposed at the
26 rates set forth herein without regard to the provisions of
27 Sections 8-11-2 and 8-11-17 of the Illinois Municipal Code.
28 If imposed, the municipal telecommunications infrastructure
29 fee must be in 1/4% increments. However, the fee shall not be
30 imposed in any case in which the imposition of the fee would
31 violate the Constitution or statutes of the United States.

32 (c) The municipal telecommunications infrastructure fee
33 authorized by this Section shall be collected, enforced, and
34 administered as set forth in subsection (c) of Section 25 of

1 this Act.

2 (d) A municipality with a population of more than
3 500,000 that imposes a municipal infrastructure maintenance
4 fee under this Section may, by ordinance, exempt from the fee
5 all charges for the inbound toll-free telecommunications
6 service commonly known as "800", "877", or "888" or for a
7 similar service.

8 (e) For the period from the effective date of this
9 amendatory Act of the 92nd General Assembly through December
10 31, 2002, any ordinance previously enacted for the purpose of
11 imposing a municipal infrastructure maintenance fee shall be
12 valid and effective for the purpose of imposing the municipal
13 infrastructure maintenance fee described in subsection (d) of
14 Section 5 of this Act.

15 (f) This Section is repealed on January 1, 2003.

16 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;
17 91-870, eff. 6-22-00.)

18 (35 ILCS 635/25)

19 Sec. 25. Collection, enforcement, and administration of
20 State telecommunications infrastructure maintenance fees.

21 (a) A telecommunications retailer shall charge each
22 customer an additional charge equal to ~~the--sum--of--(1)--an~~
23 ~~amount--equal--to~~ the State infrastructure maintenance fee
24 attributable to that customer's service address and--(2)--an
25 ~~amount--equal--to--the--optional--infrastructure--maintenance--fee,~~
26 ~~if--any,~~ attributable to that customer's service--address--and
27 ~~(3)---an---amount---equal---to---the---municipal---infrastructure~~
28 ~~maintenance--fee,~~ if--any, attributable--to--that--customer's
29 service--address. Such additional charge shall be shown
30 separately on the bill to each customer.

31 (b) The State infrastructure maintenance fee and--the
32 ~~optional--infrastructure--maintenance--fee~~ shall be designated
33 as a replacement for the personal property tax and shall be

1 remitted by the telecommunications retailer to the Illinois
 2 Department of Revenue; provided, however, that the
 3 telecommunications retailer may retain an amount not to
 4 exceed 2% of the State infrastructure maintenance fee and the
 5 optional infrastructure maintenance fee, if any, paid to the
 6 Department, with a timely paid and timely filed return to
 7 reimburse itself for expenses incurred in collecting,
 8 accounting for, and remitting the fee. All amounts herein
 9 remitted to the Department shall be transferred to the
 10 Personal Property Tax Replacement Fund in the State Treasury.

11 (c) The municipal infrastructure maintenance fee shall
 12 be remitted by the telecommunications retailer to the
 13 municipality imposing the municipal infrastructure
 14 maintenance fee; provided, however, that the
 15 telecommunications retailer may retain an amount not to
 16 exceed 2% of the municipal infrastructure maintenance fee
 17 collected by it to reimburse itself for expenses incurred in
 18 accounting for and remitting the fee. The municipality
 19 imposing the municipal infrastructure maintenance fee shall
 20 collect, enforce, and administer the fee.

21 (d) Except as provided in subsection (c), during any
 22 period of time when a municipality receives any compensation
 23 other than the municipal infrastructure maintenance fee set
 24 forth in Section 20, for a telecommunications retailer's use
 25 of the public right of way, no municipal infrastructure
 26 maintenance fee may be imposed by such municipality pursuant
 27 to this Act.

28 (e) A municipality that, pursuant to a franchise
 29 agreement in existence on the effective date of this Act,
 30 receives compensation from a telecommunications retailer for
 31 the use of the public right of way, may impose a municipal
 32 infrastructure maintenance fee pursuant to this Act only on
 33 the condition that such municipality (1) waives its right to
 34 receive all fees, charges and other compensation under all

1 existing---franchise---agreements---or---the---like---with
 2 telecommunications---retailers---during--the--time--that--the
 3 municipality-imposes-a-municipal--infrastructure--maintenance
 4 fee--and--(2)--imposes-by-ordinance-(or-other-proper-means)-a
 5 municipal--infrastructure--maintenance--fee---which---becomes
 6 effective--no-sooner-than-90-days-after-such-municipality-has
 7 provided--written--notice---by---certified--mail---to---each
 8 telecommunications-retailer-with-whom-the-municipality-has-an
 9 existing--franchise--agreement,--that-the-municipality-waives
 10 all-compensation-under-such-existing-franchise-agreement.
 11 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;
 12 90-655, eff. 7-30-98.)

13 (35 ILCS 635/27)

14 Sec. 27. Returns by telecommunications retailer;
 15 extensions. Except as provided hereinafter in this Section,
 16 on or before the 30th day of each month each
 17 telecommunications retailer maintaining a place of business
 18 in this State shall make a return and payment of fees to the
 19 Department for the preceding calendar month on a form
 20 prescribed and furnished by the Department. The return shall
 21 be signed by the telecommunications retailer under penalties
 22 of perjury and shall contain the following information:

- 23 1. His or her name;
- 24 2. The address of his or her principal place of
 25 business, or and the address of the principal place of
 26 business (if that is a different address) from which he
 27 or she engages in the business of transmitting
 28 telecommunications;
- 29 3. The total amount of gross charges charged by him
 30 or her during the preceding calendar month for providing
 31 telecommunications during such calendar month;
- 32 4. The total amount received by him or her during
 33 the preceding calendar month on credit extended;

1 5. Deductions allowed by law;

2 6. Gross charges that were charged by him or her
3 during the preceding calendar month and upon the basis of
4 which the State infrastructure maintenance fee is
5 imposed;

6 7. (Blank) ~~Gross charges that were charged by him~~
7 ~~or her during the preceding calendar month and upon the~~
8 ~~basis of which the optional infrastructure maintenance~~
9 ~~fee, if any, is imposed for each particular municipality;~~

10 8. Amounts of fees due;

11 9. Such other reasonable information as the
12 Department may require.

13 If the telecommunications retailer's average monthly
14 liability to the Department does not exceed \$100, the
15 Department may authorize his or her returns to be filed on a
16 quarter annual basis, with the return for January, February,
17 and March of a given year being due by April 15 of such year;
18 with the return for April, May, and June of a given year
19 being due by July 15 of such year; with the return for July,
20 August, and September of a given year being due by October 15
21 of such year; and with the return of October, November, and
22 December of a given year being due by January 15 of the
23 following year.

24 Notwithstanding any other provision of this Act
25 concerning the time within which a telecommunications
26 retailer may file his or her return, in the case of any
27 telecommunications retailer who ceases to engage in a kind of
28 business which makes him or her responsible for filing
29 returns under this Act, such telecommunications retailer
30 shall file a final return under this Act with the Department
31 not more than one month after discontinuing such business.

32 In making such return, the telecommunications retailer
33 shall determine the value of any consideration other than
34 money received by him or her and he or she shall include such

1 value in his or her return. Such determination shall be
2 subject to review and revision by the Department in the
3 manner hereinafter provided for the correction of returns.

4 If any payment provided for in this Section exceeds the
5 telecommunications retailer's liabilities under this Act, as
6 shown on an original monthly return, the Department may
7 authorize the telecommunications retailer to credit such
8 excess payment against liability subsequently to be remitted
9 to the Department under this Act, in accordance with
10 reasonable rules and regulations prescribed by the
11 Department. If the Department subsequently determines that
12 all or any part of the credit taken was not actually due to
13 the telecommunications retailer, the telecommunications
14 retailer's 2% discount shall be reduced by 2% of the
15 difference between the credit taken and that actually due,
16 and that telecommunications retailer shall be liable for
17 penalties and interest on such difference.

18 ~~If the Director finds that the information required for~~
19 ~~the making of an accurate return cannot reasonably be~~
20 ~~compiled by a telecommunications retailer within 15 days~~
21 ~~after the close of the calendar month for which a return is~~
22 ~~to be made, he or she may grant an extension of time for the~~
23 ~~filing of such return for a period of not to exceed 31~~
24 ~~calendar days. The granting of such an extension may be~~
25 ~~conditioned upon the deposit by the telecommunications~~
26 ~~retailer with the Department of an amount of money not~~
27 ~~exceeding the amount estimated by the Director to be due with~~
28 ~~the return so extended. All such deposits, including any~~
29 ~~heretofore made with the Department, shall be credited~~
30 ~~against the telecommunications retailer's liabilities under~~
31 ~~this Act. If any such deposit exceeds the telecommunications~~
32 ~~retailer's present and probable future liabilities under this~~
33 ~~Act, the Department shall issue to the telecommunications~~
34 ~~retailer a credit memorandum, which may be assigned by the~~

1 telecommunications--retailer--to-a-similar-telecommunications
2 retailer-under-this-Act,-in-accordance-with-reasonable--rules
3 and-regulations-to-be-prescribed-by-the-Department-

4 Any telecommunications retailer required to make payments
5 under this Section may make the payments by electronic funds
6 transfer. The Department shall adopt rules necessary to
7 effectuate a program of electronic funds transfer.

8 (Source: P.A. 90-562, eff. 12-16-97.)

9 (35 ILCS 635/27.35)

10 Sec. 27.35. Rules and regulations; notice to
11 telecommunications retailer; hearings. The Department may
12 make, promulgate, and enforce such reasonable rules and
13 regulations relating to the administration and enforcement of
14 only the State infrastructure maintenance fee and---the
15 optional--infrastructure--maintenance--fee authorized by this
16 Act. Such-rules-and--regulations--shall--not--apply--to--the
17 administration----and----enforcement----of----the---municipal
18 infrastructure-maintenance-fee-authorized-by-this-Act-

19 Whenever notice to a telecommunications retailer is
20 required by this Act, such notice may be given by United
21 States certified or registered mail, addressed to the
22 telecommunications retailer concerned at his or her last
23 known address, and proof of such mailing shall be sufficient
24 for the purposes of this Act. In the case of a notice of
25 hearing, such notice shall be mailed not less than 7 days
26 prior to the day fixed for the hearing.

27 All hearings provided for in this Act with respect to a
28 telecommunications retailer having his or her principal place
29 of business other than in Cook County shall be held at the
30 Department's office nearest to the location of the
31 telecommunications retailer's principal place of business:
32 Provided that if the telecommunications retailer has his or
33 her principal place of business in Cook County, such hearing

1 shall be held in Cook County; and provided further that if
2 the telecommunications retailer does not have his principal
3 place of business in this State, such hearings shall be held
4 in Sangamon County.

5 Whenever any proceeding provided by this Act has been
6 begun by the Department or by a person subject thereto and
7 such person thereafter dies or becomes a person under legal
8 disability before the proceeding has been concluded, the
9 legal representative of the deceased person or a person under
10 legal disability shall notify the Department of such death or
11 legal disability. The legal representative, as such, shall
12 then be substituted by the Department in place of and for the
13 person. Within 20 days after notice to the legal
14 representative of the time fixed for that purpose, the
15 proceeding may proceed in all respects and with like effect
16 as though the person had not died or become a person under
17 legal disability.

18 (Source: P.A. 90-562, eff. 12-16-97.)

19 (35 ILCS 635/30)

20 Sec. 30. Validity of existing franchise fees and
21 agreements.

22 ~~(a) Upon the effective date of this Act, the municipal~~
23 ~~infrastructure maintenance fee authorized by this Act shall~~
24 ~~be the only fee or compensation for recovering the reasonable~~
25 ~~costs of regulating the use of the public rights of way and~~
26 ~~for the use of public rights of way that may be levied by or~~
27 ~~otherwise required by ordinance, resolution, or contract to~~
28 ~~be paid to a municipality for the use of its public way by~~
29 ~~telecommunications retailers. No new franchise fees or other~~
30 charges for the use of the public rights-of-way, including
31 charges for the recovery of reasonable costs of regulating
32 the use of the public rights-of-way, shall be imposed upon,
33 levied on, or otherwise required of telecommunications

1 retailers by ordinance, resolution, or contract, nor shall
2 any or other new charges be required from telecommunications
3 retailers by municipalities from and after the effective date
4 of this Act. ~~No telecommunications retailer paying either~~
5 ~~the applicable municipal infrastructure maintenance fee or~~
6 ~~the optional infrastructure maintenance fee authorized by~~
7 ~~this Act may be denied the use, directly or indirectly, of~~
8 ~~the public way of the municipality either imposing the~~
9 ~~municipal infrastructure maintenance fee or to which the~~
10 ~~optional infrastructure maintenance fee relates, as the case~~
11 ~~may be, as authorized under the Telephone Company Act.~~
12 Nothing in this Act shall excuse any person or entity from
13 obligations imposed under any law concerning generally
14 applicable taxes or standards for construction on, over,
15 under, or within, use of or repair of the public
16 rights-of-way, including standards relating to free standing
17 towers and other structures upon the public way, nor shall
18 any person or entity be excused from any liability imposed by
19 any such law for the failure to comply with such generally
20 applicable taxes or standards governing construction on,
21 over, under, or within, use of or repair of the public
22 rights-of-way.

23 (b) Agreements between telecommunications retailers and
24 municipalities entered into before the effective date of this
25 Act regarding use of the public ways shall remain valid
26 according to and for their stated terms, except as to fees or
27 charges waived under Section 5-60 of the Simplified Municipal
28 Telecommunications Tax Act. ~~If, following the effective date~~
29 ~~of this Act, such an agreement is renewed automatically or by~~
30 ~~agreement of the parties, the compensation or fee under the~~
31 ~~agreement shall be equal to the maximum amount of the~~
32 ~~municipal infrastructure maintenance fee which the~~
33 ~~municipality could impose under Section 20 of this Act.~~

34 (c) The regulation of the terms and conditions upon

1 which poles, conduits, and other facilities located in the
 2 public way may be shared by or between telecommunications
 3 retailers shall be committed exclusively to the jurisdiction
 4 of the Illinois Commerce Commission and the Federal
 5 Communications Commission, and such regulation shall not be
 6 among the home rule powers and functions described in
 7 subsection (h) of Section 6 of Article VII of the Illinois
 8 Constitution. Moreover, no municipality may enter into any
 9 contract or agreement with a telecommunications retailer with
 10 respect to the terms and conditions upon which poles,
 11 conduits, and other facilities located in the public way may
 12 be shared by or between telecommunications retailers.

13 (Source: P.A. 90-154, eff. 1-1-98.)

14 (35 ILCS 635/35)

15 Sec. 35. Home rule. The authorization of infrastructure
 16 maintenance fees ~~and--other-fees-relating-to-the-use-of-the~~
 17 ~~public-right-of-way-for-telecommunications--activity--imposed~~
 18 ~~upon--telecommunications--retailers~~ is an exclusive power and
 19 function of the State. A home rule municipality may not
 20 impose franchise or other fees upon or require other
 21 compensation from telecommunications retailers for use of the
 22 public way, ~~7--other---than---the---municipal---infrastructure~~
 23 ~~maintenance-fee-authorized-by-this-Act~~. This Act is a denial
 24 and limitation of municipal home rule powers and functions
 25 under subsection (g) ~~(h)~~ of Section 6 of Article VII of the
 26 Illinois Constitution.

27 (Source: P.A. 90-154, eff. 1-1-98.)

28 Section 90-20. The Emergency Telephone System Act is
 29 amended by changing Section 15.3 as follows:

30 (50 ILCS 750/15.3) (from Ch. 134, par. 45.3)

31 (Text of Section before amendment by P.A. 92-474)

1 Sec. 15.3. (a) The corporate authorities of any
2 municipality or any county may, subject to the limitations of
3 subsections (c), (d), and (h), and in addition to any tax
4 levied pursuant to the Simplified Municipal
5 Telecommunications Tax Act Section--8-11-2-of-the-Illinois
6 Municipal--Code, impose a monthly surcharge on billed
7 subscribers of network connection provided by
8 telecommunication carriers engaged in the business of
9 transmitting messages by means of electricity originating
10 within the corporate limits of the municipality or county
11 imposing the surcharge at a rate per network connection
12 determined in accordance with subsection (c). A municipality
13 may enter into an intergovernmental agreement with any county
14 in which it is partially located, when the county has adopted
15 an ordinance to impose a surcharge as provided in subsection
16 (c), to include that portion of the municipality lying
17 outside the county in that county's surcharge referendum. If
18 the county's surcharge referendum is approved, the portion of
19 the municipality identified in the intergovernmental
20 agreement shall automatically be disconnected from the county
21 in which it lies and connected to the county which approved
22 the referendum for purposes of a surcharge on
23 telecommunications carriers.

24 (b) For purposes of computing the surcharge imposed by
25 subsection (a), the network connections to which the
26 surcharge shall apply shall be those in-service network
27 connections, other than those network connections assigned to
28 the municipality or county, where the service address for
29 each such network connection or connections is located within
30 the corporate limits of the municipality or county levying
31 the surcharge. The "service address" shall mean the location
32 of the primary use of the network connection or connections.
33 With respect to network connections provided for use with pay
34 telephone services for which there is no billed subscriber,

1 the telecommunications carrier providing the network
2 connection shall be deemed to be its own billed subscriber
3 for purposes of applying the surcharge.

4 (c) Upon the passage of an ordinance to impose a
5 surcharge under this Section the clerk of the municipality or
6 county shall certify the question of whether the surcharge
7 may be imposed to the proper election authority who shall
8 submit the public question to the electors of the
9 municipality or county in accordance with the general
10 election law; provided that such question shall not be
11 submitted at a consolidated primary election. The public
12 question shall be in substantially the following form:

13 -----
14 Shall the county (or city, village
15 or incorporated town) of.....impose YES
16 a surcharge of up to...¢ per month per
17 network connection, which surcharge will
18 be added to the monthly bill you receive -----
19 for telephone or telecommunications
20 charges, for the purpose of installing
21 (or improving) a 9-1-1 Emergency NO
22 Telephone System?

23 -----
24 If a majority of the votes cast upon the public question
25 are in favor thereof, the surcharge shall be imposed.

26 However, if a Joint Emergency Telephone System Board is
27 to be created pursuant to an intergovernmental agreement
28 under Section 15.4, the ordinance to impose the surcharge
29 shall be subject to the approval of a majority of the total
30 number of votes cast upon the public question by the electors
31 of all of the municipalities or counties, or combination
32 thereof, that are parties to the intergovernmental agreement.

33 The referendum requirement of this subsection (c) shall
34 not apply to any municipality with a population over 500,000

1 or to any county in which a proposition as to whether a
2 sophisticated 9-1-1 Emergency Telephone System should be
3 installed in the county, at a cost not to exceed a specified
4 monthly amount per network connection, has previously been
5 approved by a majority of the electors of the county voting
6 on the proposition at an election conducted before the
7 effective date of this amendatory Act of 1987.

8 (d) A county may not impose a surcharge, unless
9 requested by a municipality, in any incorporated area which
10 has previously approved a surcharge as provided in subsection
11 (c) or in any incorporated area where the corporate
12 authorities of the municipality have previously entered into
13 a binding contract or letter of intent with a
14 telecommunications carrier to provide sophisticated 9-1-1
15 service through municipal funds.

16 (e) A municipality or county may at any time by
17 ordinance change the rate of the surcharge imposed under this
18 Section if the new rate does not exceed the rate specified in
19 the referendum held pursuant to subsection (c).

20 (f) The surcharge authorized by this Section shall be
21 collected from the subscriber by the telecommunications
22 carrier providing the subscriber the network connection as a
23 separately stated item on the subscriber's bill.

24 (g) The amount of surcharge collected by the
25 telecommunications carrier shall be paid to the particular
26 municipality or county or Joint Emergency Telephone System
27 Board not later than 30 days after the surcharge is
28 collected, net of any network or other 9-1-1 or sophisticated
29 9-1-1 system charges then due the particular
30 telecommunications carrier, as shown on an itemized bill.
31 The telecommunications carrier collecting the surcharge shall
32 also be entitled to deduct 3% of the gross amount of
33 surcharge collected to reimburse the telecommunications
34 carrier for the expense of accounting and collecting the

1 surcharge.

2 (h) A municipality with a population over 500,000 may
3 not impose a monthly surcharge in excess of \$1.25 per network
4 connection.

5 (i) Any municipality or county or joint emergency
6 telephone system board that has imposed a surcharge pursuant
7 to this Section prior to the effective date of this
8 amendatory Act of 1990 shall hereafter impose the surcharge
9 in accordance with subsection (b) of this Section.

10 (j) The corporate authorities of any municipality or
11 county may issue, in accordance with Illinois law, bonds,
12 notes or other obligations secured in whole or in part by the
13 proceeds of the surcharge described in this Section.
14 Notwithstanding any change in law subsequent to the issuance
15 of any bonds, notes or other obligations secured by the
16 surcharge, every municipality or county issuing such bonds,
17 notes or other obligations shall be authorized to impose the
18 surcharge as though the laws relating to the imposition of
19 the surcharge in effect at the time of issuance of the bonds,
20 notes or other obligations were in full force and effect
21 until the bonds, notes or other obligations are paid in full.
22 The State of Illinois pledges and agrees that it will not
23 limit or alter the rights and powers vested in municipalities
24 and counties by this Section to impose the surcharge so as to
25 impair the terms of or affect the security for bonds, notes
26 or other obligations secured in whole or in part with the
27 proceeds of the surcharge described in this Section.

28 (k) Any surcharge collected by or imposed on a
29 telecommunications carrier pursuant to this Section shall be
30 held to be a special fund in trust for the municipality,
31 county or Joint Emergency Telephone Board imposing the
32 surcharge. Except for the 3% deduction provided in
33 subsection (g) above, the special fund shall not be subject
34 to the claims of creditors of the telecommunication carrier.

1 (Source: P.A. 86-101; 86-1344.)

2 (Text of Section after amendment by P.A. 92-474)

3 Sec. 15.3. (a) The corporate authorities of any
4 municipality or any county may, subject to the limitations of
5 subsections (c), (d), and (h), and in addition to any tax
6 levied pursuant to the Simplified Municipal
7 Telecommunications Tax Act Section--8-11-2--of--the--Illinois
8 Municipal---Code, impose a monthly surcharge on billed
9 subscribers of network connection provided by
10 telecommunication carriers engaged in the business of
11 transmitting messages by means of electricity originating
12 within the corporate limits of the municipality or county
13 imposing the surcharge at a rate per network connection
14 determined in accordance with subsection (c). For mobile
15 telecommunications services, if a surcharge is imposed it
16 shall be imposed based upon the municipality or county that
17 encompasses the customer's place of primary use as defined in
18 the Mobile Telecommunications Sourcing Conformity Act. A
19 municipality may enter into an intergovernmental agreement
20 with any county in which it is partially located, when the
21 county has adopted an ordinance to impose a surcharge as
22 provided in subsection (c), to include that portion of the
23 municipality lying outside the county in that county's
24 surcharge referendum. If the county's surcharge referendum
25 is approved, the portion of the municipality identified in
26 the intergovernmental agreement shall automatically be
27 disconnected from the county in which it lies and connected
28 to the county which approved the referendum for purposes of a
29 surcharge on telecommunications carriers.

30 (b) For purposes of computing the surcharge imposed by
31 subsection (a), the network connections to which the
32 surcharge shall apply shall be those in-service network
33 connections, other than those network connections assigned to
34 the municipality or county, where the service address for

1 each such network connection or connections is located within
 2 the corporate limits of the municipality or county levying
 3 the surcharge. Except for mobile telecommunication services,
 4 the "service address" shall mean the location of the primary
 5 use of the network connection or connections. For mobile
 6 telecommunication services, "service address" means the
 7 customer's place of primary use as defined in the Mobile
 8 Telecommunications Sourcing Conformity Act. With respect to
 9 network connections provided for use with pay telephone
 10 services for which there is no billed subscriber, the
 11 telecommunications carrier providing the network connection
 12 shall be deemed to be its own billed subscriber for purposes
 13 of applying the surcharge.

14 (c) Upon the passage of an ordinance to impose a
 15 surcharge under this Section the clerk of the municipality or
 16 county shall certify the question of whether the surcharge
 17 may be imposed to the proper election authority who shall
 18 submit the public question to the electors of the
 19 municipality or county in accordance with the general
 20 election law; provided that such question shall not be
 21 submitted at a consolidated primary election. The public
 22 question shall be in substantially the following form:

23 -----
 24 Shall the county (or city, village
 25 or incorporated town) of.....impose YES
 26 a surcharge of up to...¢ per month per
 27 network connection, which surcharge will
 28 be added to the monthly bill you receive -----
 29 for telephone or telecommunications
 30 charges, for the purpose of installing
 31 (or improving) a 9-1-1 Emergency NO
 32 Telephone System?
 33 -----

34 If a majority of the votes cast upon the public question

1 are in favor thereof, the surcharge shall be imposed.

2 However, if a Joint Emergency Telephone System Board is
3 to be created pursuant to an intergovernmental agreement
4 under Section 15.4, the ordinance to impose the surcharge
5 shall be subject to the approval of a majority of the total
6 number of votes cast upon the public question by the electors
7 of all of the municipalities or counties, or combination
8 thereof, that are parties to the intergovernmental agreement.

9 The referendum requirement of this subsection (c) shall
10 not apply to any municipality with a population over 500,000
11 or to any county in which a proposition as to whether a
12 sophisticated 9-1-1 Emergency Telephone System should be
13 installed in the county, at a cost not to exceed a specified
14 monthly amount per network connection, has previously been
15 approved by a majority of the electors of the county voting
16 on the proposition at an election conducted before the
17 effective date of this amendatory Act of 1987.

18 (d) A county may not impose a surcharge, unless
19 requested by a municipality, in any incorporated area which
20 has previously approved a surcharge as provided in subsection
21 (c) or in any incorporated area where the corporate
22 authorities of the municipality have previously entered into
23 a binding contract or letter of intent with a
24 telecommunications carrier to provide sophisticated 9-1-1
25 service through municipal funds.

26 (e) A municipality or county may at any time by
27 ordinance change the rate of the surcharge imposed under this
28 Section if the new rate does not exceed the rate specified in
29 the referendum held pursuant to subsection (c).

30 (f) The surcharge authorized by this Section shall be
31 collected from the subscriber by the telecommunications
32 carrier providing the subscriber the network connection as a
33 separately stated item on the subscriber's bill.

34 (g) The amount of surcharge collected by the

1 telecommunications carrier shall be paid to the particular
2 municipality or county or Joint Emergency Telephone System
3 Board not later than 30 days after the surcharge is
4 collected, net of any network or other 9-1-1 or sophisticated
5 9-1-1 system charges then due the particular
6 telecommunications carrier, as shown on an itemized bill.
7 The telecommunications carrier collecting the surcharge shall
8 also be entitled to deduct 3% of the gross amount of
9 surcharge collected to reimburse the telecommunications
10 carrier for the expense of accounting and collecting the
11 surcharge.

12 (h) A municipality with a population over 500,000 may
13 not impose a monthly surcharge in excess of \$1.25 per network
14 connection.

15 (i) Any municipality or county or joint emergency
16 telephone system board that has imposed a surcharge pursuant
17 to this Section prior to the effective date of this
18 amendatory Act of 1990 shall hereafter impose the surcharge
19 in accordance with subsection (b) of this Section.

20 (j) The corporate authorities of any municipality or
21 county may issue, in accordance with Illinois law, bonds,
22 notes or other obligations secured in whole or in part by the
23 proceeds of the surcharge described in this Section.
24 Notwithstanding any change in law subsequent to the issuance
25 of any bonds, notes or other obligations secured by the
26 surcharge, every municipality or county issuing such bonds,
27 notes or other obligations shall be authorized to impose the
28 surcharge as though the laws relating to the imposition of
29 the surcharge in effect at the time of issuance of the bonds,
30 notes or other obligations were in full force and effect
31 until the bonds, notes or other obligations are paid in full.
32 The State of Illinois pledges and agrees that it will not
33 limit or alter the rights and powers vested in municipalities
34 and counties by this Section to impose the surcharge so as to

1 impair the terms of or affect the security for bonds, notes
2 or other obligations secured in whole or in part with the
3 proceeds of the surcharge described in this Section.

4 (k) Any surcharge collected by or imposed on a
5 telecommunications carrier pursuant to this Section shall be
6 held to be a special fund in trust for the municipality,
7 county or Joint Emergency Telephone Board imposing the
8 surcharge. Except for the 3% deduction provided in
9 subsection (g) above, the special fund shall not be subject
10 to the claims of creditors of the telecommunication carrier.
11 (Source: P.A. 92-474, eff. 8-1-02.)

12 Section 90-22. The Wireless Emergency Telephone Safety
13 Act is amended by changing Sections 17 and 45 as follows:

14 (50 ILCS 751/17)

15 (Section scheduled to be repealed on April 1, 2005)

16 Sec. 17. Wireless carrier surcharge.

17 (a) Except as provided in Section 45, each wireless
18 carrier shall impose a monthly wireless carrier surcharge per
19 CMRS connection that either has a telephone number within an
20 area code assigned to Illinois by the North American
21 Numbering Plan Administrator or has a billing address in this
22 State. No wireless carrier shall impose the surcharge
23 authorized by this Section upon any subscriber who is subject
24 to the surcharge imposed by a unit of local government
25 pursuant to Section 45. The wireless carrier that provides
26 wireless service to the subscriber shall collect the
27 surcharge set by the Wireless Enhanced 9-1-1 Board from the
28 subscriber. For mobile telecommunications services provided
29 on and after August 1, 2002, any surcharge imposed under this
30 Act shall be imposed based upon the municipality or county
31 that encompasses the customer's place of primary use as
32 defined in the Mobile Telecommunications Sourcing Conformity

1 Act. The surcharge shall be stated as a separate item on
2 the subscriber's monthly bill. The wireless carrier shall
3 begin collecting the surcharge on bills issued within 90 days
4 after the Wireless Enhanced 9-1-1 Board sets the monthly
5 wireless surcharge. State and local taxes shall not apply to
6 the wireless carrier surcharge.

7 (b) Except as provided in Section 45, a wireless carrier
8 shall, within 45 days of collection, remit, either by check
9 or by electronic funds transfer, to the State Treasurer the
10 amount of the wireless carrier surcharge collected from each
11 subscriber. Of the amounts remitted under this subsection,
12 the State Treasurer shall deposit one-third into the Wireless
13 Carrier Reimbursement Fund and two-thirds into the Wireless
14 Service Emergency Fund.

15 (c) The first such remittance by wireless carriers shall
16 include the number of customers by zip code, and the 9-digit
17 zip code if currently being used or later implemented by the
18 carrier, that shall be the means by which the Department of
19 Central Management Services shall determine distributions
20 from the Wireless Service Emergency Fund. This information
21 shall be updated no less often than every year. Wireless
22 carriers are not required to remit surcharge moneys that are
23 billed to subscribers but not yet collected.

24 (Source: P.A. 91-660, eff. 12-22-99.)

25 (50 ILCS 751/45)

26 (Section scheduled to be repealed on April 1, 2005)

27 Sec. 45. Continuation of current practices.
28 Notwithstanding any other provision of this Act, a unit of
29 local government or emergency telephone system board
30 providing wireless 9-1-1 service and imposing and collecting
31 a wireless carrier surcharge prior to July 1, 1998 may
32 continue its practices of imposing and collecting its
33 wireless carrier surcharge, but in no event shall that

1 monthly surcharge exceed \$1.25 per commercial mobile radio
 2 service (CMRS) connection or in-service telephone number
 3 billed on a monthly basis. For mobile telecommunications
 4 services provided on and after August 1, 2002, any surcharge
 5 imposed shall be imposed based upon the municipality or
 6 county that encompasses the customer's place of primary use
 7 as defined in the Mobile Telecommunications Sourcing
 8 Conformity Act.

9 (Source: P.A. 91-660, eff. 12-22-99.)

10 Section 90-25. The Illinois Municipal Code is amended by
 11 changing Section 8-11-2 as follows:

12 (65 ILCS 5/8-11-2) (from Ch. 24, par. 8-11-2)

13 (Text of Section before amendment by P.A. 92-474)

14 Sec. 8-11-2. The corporate authorities of any
 15 municipality may tax any or all of the following occupations
 16 or privileges:

17 1. (Blank). Persons--engaged--in--the--business--of
 18 transmitting--messages--by--means--of--electricity--or--radio
 19 magnetic-waves,--or--fiber-optics,--at--a--rate--not--to--exceed
 20 5%--of--the--gross--receipts--from--that--business--originating
 21 within--the--corporate--limits--of--the--municipality.
 22 Beginning--January--1,--2001,--prepaid--telephone--calling
 23 arrangements--shall--not--be--subject--to--the--tax--imposed
 24 under--this--Section.---For--purposes--of--this--Section,
 25 "prepaid--telephone--calling--arrangements"--means--that--term
 26 as--defined--in--Section--2--27--of--the--Retailers'--Occupation
 27 Tax-Act.

28 2. Persons engaged in the business of distributing,
 29 supplying, furnishing, or selling gas for use or
 30 consumption within the corporate limits of a municipality
 31 of 500,000 or fewer population, and not for resale, at a
 32 rate not to exceed 5% of the gross receipts therefrom.

1 2a. Persons engaged in the business of
2 distributing, supplying, furnishing, or selling gas for
3 use or consumption within the corporate limits of a
4 municipality of over 500,000 population, and not for
5 resale, at a rate not to exceed 8% of the gross receipts
6 therefrom. If imposed, this tax shall be paid in monthly
7 payments.

8 3. The privilege of using or consuming electricity
9 acquired in a purchase at retail and used or consumed
10 within the corporate limits of the municipality at rates
11 not to exceed the following maximum rates, calculated on
12 a monthly basis for each purchaser:

13 (i) For the first 2,000 kilowatt-hours used or
14 consumed in a month; 0.61 cents per kilowatt-hour;

15 (ii) For the next 48,000 kilowatt-hours used or
16 consumed in a month; 0.40 cents per kilowatt-hour;

17 (iii) For the next 50,000 kilowatt-hours used or
18 consumed in a month; 0.36 cents per kilowatt-hour;

19 (iv) For the next 400,000 kilowatt-hours used or
20 consumed in a month; 0.35 cents per kilowatt-hour;

21 (v) For the next 500,000 kilowatt-hours used or
22 consumed in a month; 0.34 cents per kilowatt-hour;

23 (vi) For the next 2,000,000 kilowatt-hours used or
24 consumed in a month; 0.32 cents per kilowatt-hour;

25 (vii) For the next 2,000,000 kilowatt-hours used or
26 consumed in a month; 0.315 cents per kilowatt-hour;

27 (viii) For the next 5,000,000 kilowatt-hours used
28 or consumed in a month; 0.31 cents per kilowatt-hour;

29 (ix) For the next 10,000,000 kilowatt-hours used or
30 consumed in a month; 0.305 cents per kilowatt-hour; and

31 (x) For all electricity used or consumed in excess
32 of 20,000,000 kilowatt-hours in a month, 0.30 cents per
33 kilowatt-hour.

34 If a municipality imposes a tax at rates lower than

1 either the maximum rates specified in this Section or the
2 alternative maximum rates promulgated by the Illinois
3 Commerce Commission, as provided below, the tax rates
4 shall be imposed upon the kilowatt hour categories set
5 forth above with the same proportional relationship as
6 that which exists among such maximum rates.
7 Notwithstanding the foregoing, until December 31, 2008,
8 no municipality shall establish rates that are in excess
9 of rates reasonably calculated to produce revenues that
10 equal the maximum total revenues such municipality could
11 have received under the tax authorized by this
12 subparagraph in the last full calendar year prior to the
13 effective date of Section 65 of this amendatory Act of
14 1997; provided that this shall not be a limitation on the
15 amount of tax revenues actually collected by such
16 municipality.

17 Upon the request of the corporate authorities of a
18 municipality, the Illinois Commerce Commission shall,
19 within 90 days after receipt of such request, promulgate
20 alternative rates for each of these kilowatt-hour
21 categories that will reflect, as closely as reasonably
22 practical for that municipality, the distribution of the
23 tax among classes of purchasers as if the tax were based
24 on a uniform percentage of the purchase price of
25 electricity. A municipality that has adopted an
26 ordinance imposing a tax pursuant to subparagraph 3 as it
27 existed prior to the effective date of Section 65 of this
28 amendatory Act of 1997 may, rather than imposing the tax
29 permitted by this amendatory Act of 1997, continue to
30 impose the tax pursuant to that ordinance with respect to
31 gross receipts received from residential customers
32 through July 31, 1999, and with respect to gross receipts
33 from any non-residential customer until the first bill
34 issued to such customer for delivery services in

1 accordance with Section 16-104 of the Public Utilities
2 Act but in no case later than the last bill issued to
3 such customer before December 31, 2000. No ordinance
4 imposing the tax permitted by this amendatory Act of 1997
5 shall be applicable to any non-residential customer until
6 the first bill issued to such customer for delivery
7 services in accordance with Section 16-104 of the Public
8 Utilities Act but in no case later than the last bill
9 issued to such non-residential customer before December
10 31, 2000.

11 4. Persons engaged in the business of distributing,
12 supplying, furnishing, or selling water for use or
13 consumption within the corporate limits of the
14 municipality, and not for resale, at a rate not to exceed
15 5% of the gross receipts therefrom.

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

1 owned or operated, or exercising the same privilege within
2 the municipality.

3 Any of the taxes enumerated in this Section may be in
4 addition to the payment of money, or value of products or
5 services furnished to the municipality by the taxpayer as
6 compensation for the use of its streets, alleys, or other
7 public places, or installation and maintenance therein,
8 thereon or thereunder of poles, wires, pipes or other
9 equipment used in the operation of the taxpayer's business.

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

23 (b) In any case in which (i) prior to October 19, 1979,
24 the corporate authorities of any municipality have adopted an
25 ordinance imposing a tax authorized by this Section (or by
26 the predecessor provision of the "Revised Cities and Villages
27 Act") and have explicitly or in practice interpreted gross
28 receipts to include either charges added to customers' bills
29 pursuant to the provision of paragraph (a) of Section 36 of
30 the Public Utilities Act or charges added to customers' bills
31 by taxpayers who are not subject to rate regulation by the
32 Illinois Commerce Commission for the purpose of recovering
33 any of the tax liabilities or other amounts specified in such
34 paragraph (a) of Section 36 of that Act, and (ii) on or after

1 October 19, 1979, a judicial tribunal has construed gross
2 receipts to exclude all or part of those charges, then
3 neither those municipality nor any taxpayer who paid the tax
4 shall be required to rebate, refund, or issue credits for any
5 tax imposed or charge collected from customers pursuant to
6 the municipality's interpretation prior to October 19, 1979.
7 This paragraph reflects a legislative finding that it would
8 be contrary to the public interest to require a municipality
9 or its taxpayers to refund taxes or charges attributable to
10 the municipality's more inclusive interpretation of gross
11 receipts prior to October 19, 1979, and is not intended to
12 prescribe or limit judicial construction of this Section. The
13 legislative finding set forth in this subsection does not
14 apply to taxes imposed after the effective date of this
15 amendatory Act of 1995.

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

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

17 (d) For the purpose of the taxes enumerated in this
 18 Section:

19 "Gross receipts" means the consideration received for the
 20 ~~transmission--of--messages,--the--consideration--received--for~~
 21 distributing, supplying, furnishing or selling gas for use or
 22 consumption and not for resale, and the consideration
 23 received for distributing, supplying, furnishing or selling
 24 water for use or consumption and not for resale, and for all
 25 services rendered in connection therewith valued in money,
 26 whether received in money or otherwise, including cash,
 27 credit, services and property of every kind and material and
 28 for all services rendered therewith, and shall be determined
 29 ~~without--any--deduction--on--account--of--the--cost--of--transmitting~~
 30 ~~such--messages,~~ without any deduction on account of the cost
 31 of the service, product or commodity supplied, the cost of
 32 materials used, labor or service cost, or any other expenses
 33 whatsoever. "Gross receipts" shall not include that portion
 34 of the consideration received for distributing, supplying,

1 furnishing, or selling gas or water to, ~~or for the~~
2 ~~transmission of messages for~~, business enterprises described
3 in paragraph (e) of this Section to the extent and during the
4 period in which the exemption authorized by paragraph (e) is
5 in effect or for school districts or units of local
6 government described in paragraph (f) during the period in
7 which the exemption authorized in paragraph (f) is in effect.
8 ~~"Gross receipts" shall not include amounts paid by~~
9 ~~telecommunications retailers under the Telecommunications~~
10 ~~Municipal Infrastructure Maintenance Fee Act.~~

11 For utility bills issued on or after May 1, 1996, but
12 before May 1, 1997, and for receipts from those utility
13 bills, "gross receipts" does not include one-third of (i)
14 amounts added to customers' bills under Section 9-222 of the
15 Public Utilities Act, or (ii) amounts added to customers'
16 bills by taxpayers who are not subject to rate regulation by
17 the Illinois Commerce Commission for the purpose of
18 recovering any of the tax liabilities described in Section
19 9-222 of the Public Utilities Act. For utility bills issued
20 on or after May 1, 1997, but before May 1, 1998, and for
21 receipts from those utility bills, "gross receipts" does not
22 include two-thirds of (i) amounts added to customers' bills
23 under Section 9-222 of the Public Utilities Act, or (ii)
24 amount added to customers' bills by taxpayers who are not
25 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. For utility bills issued on or after May 1,
29 1998, and for receipts from those utility bills, "gross
30 receipts" does not include (i) amounts added to customers'
31 bills under Section 9-222 of the Public Utilities Act, or
32 (ii) amounts added to customers' bills by taxpayers who are
33 not subject to rate regulation by the Illinois Commerce
34 Commission for the purpose of recovering any of the tax

1 liabilities described in Section 9-222 of the Public
2 Utilities Act.

3 For purposes of this Section "gross receipts" shall not
4 include (i) amounts added to customers' bills under Section
5 9-221 of the Public Utilities Act, ~~or (ii) charges added to~~
6 ~~customers' bills to recover the surcharge imposed under the~~
7 ~~Emergency Telephone System Act.~~ This paragraph is not
8 intended to nor does it make any change in the meaning of
9 "gross receipts" for the purposes of this Section, but is
10 intended to remove possible ambiguities, thereby confirming
11 the existing meaning of "gross receipts" prior to the
12 effective date of this amendatory Act of 1995.

13 The words "transmitting messages", ~~in addition to the~~
14 ~~usual and popular meaning of person-to-person communication,~~
15 ~~shall include the furnishing, for a consideration, of~~
16 ~~services or facilities (whether owned or leased), or both, to~~
17 ~~persons in connection with the transmission of messages where~~
18 ~~these persons do not, in turn, receive any consideration in~~
19 ~~connection therewith, but shall not include such furnishing~~
20 ~~of services or facilities to persons for the transmission of~~
21 ~~messages to the extent that any such services or facilities~~
22 ~~for the transmission of messages are furnished for a~~
23 ~~consideration, by those persons to other persons, for the~~
24 ~~transmission of messages.~~

25 "Person" as used in this Section means any natural
26 individual, firm, trust, estate, partnership, association,
27 joint stock company, joint adventure, corporation, limited
28 liability company, municipal corporation, the State or any of
29 its political subdivisions, any State university created by
30 statute, or a receiver, trustee, guardian or other
31 representative appointed by order of any court.

32 "Person maintaining a place of business in this State"
33 shall mean any person having or maintaining within this
34 State, directly or by a subsidiary or other affiliate, an

1 office, generation facility, distribution facility,
2 transmission facility, sales office or other place of
3 business, or any employee, agent, or other representative
4 operating within this State under the authority of the person
5 or its subsidiary or other affiliate, irrespective of whether
6 such place of business or agent or other representative is
7 located in this State permanently or temporarily, or whether
8 such person, subsidiary or other affiliate is licensed or
9 qualified to do business in this State.

10 "Public utility" shall have the meaning ascribed to it in
11 Section 3-105 of the Public Utilities Act and shall include
12 ~~telecommunications-carriers-as-defined-in-Section--13-202--of~~
13 ~~that-Act-and~~ alternative retail electric suppliers as defined
14 in Section 16-102 of that Act.

15 "Purchase at retail" shall mean any acquisition of
16 electricity by a purchaser for purposes of use or
17 consumption, and not for resale, but shall not include the
18 use of electricity by a public utility directly in the
19 generation, production, transmission, delivery or sale of
20 electricity.

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

24 ~~In--the--case--of--persons--engaged--in--the--business--of~~
25 ~~transmitting-messages-through-the-use--of--mobile--equipment,~~
26 ~~such---as--cellular--phones--and--paging--systems,~~ the gross
27 ~~receipts--from--the--business--shall--be--deemed--to--originate~~
28 ~~within--the--corporate--limits--of--a--municipality--only--if--the~~
29 ~~address--to--which--the--bills--for--the--service--are--sent--is--within~~
30 ~~those--corporate--limits.-If,~~ however, ~~that--address--is--not~~
31 ~~located--within--a--municipality--that--imposes--a--tax--under--this~~
32 ~~Section,~~ then (i) if the party responsible for the bill is
33 not an individual, the gross receipts from the business shall
34 be deemed to originate within the corporate limits of the

1 municipality where that party's principal place of business
 2 in Illinois is located, and (ii) if the party responsible for
 3 the bill is an individual, the gross receipts from the
 4 business shall be deemed to originate within the corporate
 5 limits of the municipality where that party's principal
 6 residence in Illinois is located.

7 (e) Any municipality that imposes taxes upon public
 8 utilities or upon the privilege of using or consuming
 9 electricity pursuant to this Section whose territory includes
 10 any part of an enterprise zone or federally designated
 11 Foreign Trade Zone or Sub-Zone may, by a majority vote of its
 12 corporate authorities, exempt from those taxes for a period
 13 not exceeding 20 years any specified percentage of gross
 14 receipts of public utilities received from, or electricity
 15 used or consumed by, business enterprises that:

16 (1) either (i) make investments that cause the
 17 creation of a minimum of 200 full-time equivalent jobs in
 18 Illinois, (ii) make investments of at least \$175,000,000
 19 that cause the creation of a minimum of 150 full-time
 20 equivalent jobs in Illinois, or (iii) make investments
 21 that cause the retention of a minimum of 1,000 full-time
 22 jobs in Illinois; and

23 (2) are either (i) located in an Enterprise Zone
 24 established pursuant to the Illinois Enterprise Zone Act
 25 or (ii) Department of Commerce and Community Affairs
 26 designated High Impact Businesses located in a federally
 27 designated Foreign Trade Zone or Sub-Zone; and

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

31 Upon adoption of the ordinance authorizing the exemption,
 32 the municipal clerk shall transmit a copy of that ordinance
 33 to the Department of Commerce and Community Affairs. The
 34 Department of Commerce and Community Affairs shall determine

1 whether the business enterprises located in the municipality
2 meet the criteria prescribed in this paragraph. If the
3 Department of Commerce and Community Affairs determines that
4 the business enterprises meet the criteria, it shall grant
5 certification. The Department of Commerce and Community
6 Affairs shall act upon certification requests within 30 days
7 after receipt of the ordinance.

8 Upon certification of the business enterprise by the
9 Department of Commerce and Community Affairs, the Department
10 of Commerce and Community Affairs shall notify the Department
11 of Revenue of the certification. The Department of Revenue
12 shall notify the public utilities of the exemption status of
13 the gross receipts received from, and the electricity used or
14 consumed by, the certified business enterprises. Such
15 exemption status shall be effective within 3 months after
16 certification.

17 (f) A municipality that imposes taxes upon public
18 utilities or upon the privilege of using or consuming
19 electricity under this Section and whose territory includes
20 part of another unit of local government or a school district
21 may by ordinance exempt the other unit of local government or
22 school district from those taxes.

23 (g) The amendment of this Section by Public Act 84-127
24 shall take precedence over any other amendment of this
25 Section by any other amendatory Act passed by the 84th
26 General Assembly before the effective date of Public Act
27 84-127.

28 (h) In any case in which, before July 1, 1992, a person
29 engaged in the business of transmitting messages through the
30 use of mobile equipment, such as cellular phones and paging
31 systems, has determined the municipality within which the
32 gross receipts from the business originated by reference to
33 the location of its transmitting or switching equipment, then
34 (i) neither the municipality to which tax was paid on that

1 basis nor the taxpayer that paid tax on that basis shall be
 2 required to rebate, refund, or issue credits for any such tax
 3 or charge collected from customers to reimburse the taxpayer
 4 for the tax and (ii) no municipality to which tax would have
 5 been paid with respect to those gross receipts if the
 6 provisions of this amendatory Act of 1991 had been in effect
 7 before July 1, 1992, shall have any claim against the
 8 taxpayer for any amount of the tax.

9 (Source: P.A. 90-16, eff. 6-16-97; 90-561, eff. 8-1-98;
 10 90-562, eff. 12-16-97; 90-655, eff. 7-30-98; 91-870, eff.
 11 6-22-00.)

12 (Text of Section after amendment by P.A. 92-474)

13 Sec. 8-11-2. The corporate authorities of any
 14 municipality may tax any or all of the following occupations
 15 or privileges:

16 1. (Blank). ~~Persons--engaged--in--the--business--of~~
 17 ~~transmitting--messages--by--means--of--electricity--or--radio~~
 18 ~~magnetic--waves,--or--fiber--optics,--at--a--rate--not--to--exceed~~
 19 ~~5%--of--the--gross--receipts--from--that--business--originating~~
 20 ~~within--the--corporate--limits--of--the--municipality.~~
 21 ~~Beginning--January--1,--2001,--prepaid--telephone--calling~~
 22 ~~arrangements--shall--not--be--subject--to--the--tax--imposed~~
 23 ~~under--this--Section.---For--purposes--of--this--Section,~~
 24 ~~"prepaid--telephone--calling--arrangements"--means--that--term~~
 25 ~~as--defined--in--Section--2--27--of--the--Retailers'-Occupation~~
 26 ~~Tax--Act.~~

27 2. Persons engaged in the business of distributing,
 28 supplying, furnishing, or selling gas for use or
 29 consumption within the corporate limits of a municipality
 30 of 500,000 or fewer population, and not for resale, at a
 31 rate not to exceed 5% of the gross receipts therefrom.

32 2a. Persons engaged in the business of
 33 distributing, supplying, furnishing, or selling gas for
 34 use or consumption within the corporate limits of a

1 municipality of over 500,000 population, and not for
2 resale, at a rate not to exceed 8% of the gross receipts
3 therefrom. If imposed, this tax shall be paid in monthly
4 payments.

5 3. The privilege of using or consuming electricity
6 acquired in a purchase at retail and used or consumed
7 within the corporate limits of the municipality at rates
8 not to exceed the following maximum rates, calculated on
9 a monthly basis for each purchaser:

10 (i) For the first 2,000 kilowatt-hours used or
11 consumed in a month; 0.61 cents per kilowatt-hour;

12 (ii) For the next 48,000 kilowatt-hours used or
13 consumed in a month; 0.40 cents per kilowatt-hour;

14 (iii) For the next 50,000 kilowatt-hours used or
15 consumed in a month; 0.36 cents per kilowatt-hour;

16 (iv) For the next 400,000 kilowatt-hours used or
17 consumed in a month; 0.35 cents per kilowatt-hour;

18 (v) For the next 500,000 kilowatt-hours used or
19 consumed in a month; 0.34 cents per kilowatt-hour;

20 (vi) For the next 2,000,000 kilowatt-hours used or
21 consumed in a month; 0.32 cents per kilowatt-hour;

22 (vii) For the next 2,000,000 kilowatt-hours used or
23 consumed in a month; 0.315 cents per kilowatt-hour;

24 (viii) For the next 5,000,000 kilowatt-hours used
25 or consumed in a month; 0.31 cents per kilowatt-hour;

26 (ix) For the next 10,000,000 kilowatt-hours used or
27 consumed in a month; 0.305 cents per kilowatt-hour; and

28 (x) For all electricity used or consumed in excess
29 of 20,000,000 kilowatt-hours in a month, 0.30 cents per
30 kilowatt-hour.

31 If a municipality imposes a tax at rates lower than
32 either the maximum rates specified in this Section or the
33 alternative maximum rates promulgated by the Illinois
34 Commerce Commission, as provided below, the tax rates

1 shall be imposed upon the kilowatt hour categories set
2 forth above with the same proportional relationship as
3 that which exists among such maximum rates.
4 Notwithstanding the foregoing, until December 31, 2008,
5 no municipality shall establish rates that are in excess
6 of rates reasonably calculated to produce revenues that
7 equal the maximum total revenues such municipality could
8 have received under the tax authorized by this
9 subparagraph in the last full calendar year prior to the
10 effective date of Section 65 of this amendatory Act of
11 1997; provided that this shall not be a limitation on the
12 amount of tax revenues actually collected by such
13 municipality.

14 Upon the request of the corporate authorities of a
15 municipality, the Illinois Commerce Commission shall,
16 within 90 days after receipt of such request, promulgate
17 alternative rates for each of these kilowatt-hour
18 categories that will reflect, as closely as reasonably
19 practical for that municipality, the distribution of the
20 tax among classes of purchasers as if the tax were based
21 on a uniform percentage of the purchase price of
22 electricity. A municipality that has adopted an
23 ordinance imposing a tax pursuant to subparagraph 3 as it
24 existed prior to the effective date of Section 65 of this
25 amendatory Act of 1997 may, rather than imposing the tax
26 permitted by this amendatory Act of 1997, continue to
27 impose the tax pursuant to that ordinance with respect to
28 gross receipts received from residential customers
29 through July 31, 1999, and with respect to gross receipts
30 from any non-residential customer until the first bill
31 issued to such customer for delivery services in
32 accordance with Section 16-104 of the Public Utilities
33 Act but in no case later than the last bill issued to
34 such customer before December 31, 2000. No ordinance

1 imposing the tax permitted by this amendatory Act of 1997
2 shall be applicable to any non-residential customer until
3 the first bill issued to such customer for delivery
4 services in accordance with Section 16-104 of the Public
5 Utilities Act but in no case later than the last bill
6 issued to such non-residential customer before December
7 31, 2000.

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

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

1 period in which the exemption authorized by paragraph (e) is
 2 in effect or for school districts or units of local
 3 government described in paragraph (f) during the period in
 4 which the exemption authorized in paragraph (f) is in effect.
 5 ~~"Gross---receipts"---shall---not---include--amounts--paid--by~~
 6 ~~telecommunications--retailers--under--the--Telecommunications~~
 7 ~~Municipal-Infrastructure-Maintenance-Fee-Act.~~

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

34 For purposes of this Section "gross receipts" shall not

1 include (i) amounts added to customers' bills under Section
 2 9-221 of the Public Utilities Act, or (ii) charges added to
 3 customers' bills to recover the surcharge imposed under the
 4 Emergency Telephone System Act. This paragraph is not
 5 intended to nor does it make any change in the meaning of
 6 "gross receipts" for the purposes of this Section, but is
 7 intended to remove possible ambiguities, thereby confirming
 8 the existing meaning of "gross receipts" prior to the
 9 effective date of this amendatory Act of 1995.

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

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

29 "Person maintaining a place of business in this State"
 30 shall mean any person having or maintaining within this
 31 State, directly or by a subsidiary or other affiliate, an
 32 office, generation facility, distribution facility,
 33 transmission facility, sales office or other place of
 34 business, or any employee, agent, or other representative

1 operating within this State under the authority of the person
2 or its subsidiary or other affiliate, irrespective of whether
3 such place of business or agent or other representative is
4 located in this State permanently or temporarily, or whether
5 such person, subsidiary or other affiliate is licensed or
6 qualified to do business in this State.

7 "Public utility" shall have the meaning ascribed to it in
8 Section 3-105 of the Public Utilities Act and shall include
9 ~~telecommunications--carriers--as-defined-in-Section-13-202-of~~
10 ~~that-Act-and~~ alternative retail electric suppliers as defined
11 in Section 16-102 of that Act.

12 "Purchase at retail" shall mean any acquisition of
13 electricity by a purchaser for purposes of use or
14 consumption, and not for resale, but shall not include the
15 use of electricity by a public utility directly in the
16 generation, production, transmission, delivery or sale of
17 electricity.

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

21 ~~In-the--case--of--persons--engaged--in--the--business--of~~
22 ~~transmitting--messages--through--the-use-of-mobile-equipment,~~
23 ~~such--as--cellular--phones--and--paging--systems,~~ ~~the--gross~~
24 ~~receipts--from--the--business--shall--be--deemed-to-originate~~
25 ~~within-the-corporate-limits-of-a--municipality--only--if--the~~
26 ~~customer's--place--of--primary--use--as-defined-in-the-Mobile~~
27 ~~Telecommunications-Sourcing-Conformity-Act--is--within--those~~
28 ~~corporate-limits.~~

29 (e) Any municipality that imposes taxes upon public
30 utilities or upon the privilege of using or consuming
31 electricity pursuant to this Section whose territory includes
32 any part of an enterprise zone or federally designated
33 Foreign Trade Zone or Sub-Zone may, by a majority vote of its
34 corporate authorities, exempt from those taxes for a period

1 not exceeding 20 years any specified percentage of gross
2 receipts of public utilities received from, or electricity
3 used or consumed by, business enterprises that:

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

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

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

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

30 Upon certification of the business enterprise by the
31 Department of Commerce and Community Affairs, the Department
32 of Commerce and Community Affairs shall notify the Department
33 of Revenue of the certification. The Department of Revenue
34 shall notify the public utilities of the exemption status of

1 the gross receipts received from, and the electricity used or
2 consumed by, the certified business enterprises. Such
3 exemption status shall be effective within 3 months after
4 certification.

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

11 (g) The amendment of this Section by Public Act 84-127
12 shall take precedence over any other amendment of this
13 Section by any other amendatory Act passed by the 84th
14 General Assembly before the effective date of Public Act
15 84-127.

16 (h) In any case in which, before July 1, 1992, a person
17 engaged in the business of transmitting messages through the
18 use of mobile equipment, such as cellular phones and paging
19 systems, has determined the municipality within which the
20 gross receipts from the business originated by reference to
21 the location of its transmitting or switching equipment, then

22 (i) neither the municipality to which tax was paid on that
23 basis nor the taxpayer that paid tax on that basis shall be
24 required to rebate, refund, or issue credits for any such tax
25 or charge collected from customers to reimburse the taxpayer
26 for the tax and (ii) no municipality to which tax would have
27 been paid with respect to those gross receipts if the
28 provisions of this amendatory Act of 1991 had been in effect
29 before July 1, 1992, shall have any claim against the
30 taxpayer for any amount of the tax.

31 (Source: P.A. 91-870, eff. 6-22-00; 92-474, eff. 8-1-02.)

32 Section 90-30. The Illinois Municipal Code is amended by
33 changing Section 8-11-17 as follows:

1 (65 ILCS 5/8-11-17) (from Ch. 24, par. 8-11-17)
2 Sec. 8-11-17. Municipal telecommunications tax.

3 (a) Beginning on the effective date of this amendatory
4 Act of 1991, the corporate authorities of any municipality in
5 this State may tax any or all of the following acts or
6 privileges:

7 (1) The act or privilege of originating in such
8 municipality or receiving in such municipality intrastate
9 telecommunications by a person at a rate not to exceed 5%
10 of the gross charge for such telecommunications purchased
11 at retail from a retailer by such person. However, such
12 tax is not imposed on such act or privilege to the extent
13 such act or privilege may not, under the Constitution and
14 statutes of the United States, be made the subject of
15 taxation by municipalities in this State.

16 (2) The act or privilege of originating in such
17 municipality or receiving in such municipality interstate
18 telecommunications by a person at a rate not to exceed 5%
19 of the gross charge for such telecommunications purchased
20 at retail from a retailer by such person. To prevent
21 actual multi-state taxation of the act or privilege that
22 is subject to taxation under this paragraph, any
23 taxpayer, upon proof that the taxpayer has paid a tax in
24 another state on such event, shall be allowed a credit
25 against any tax enacted pursuant to an ordinance
26 authorized by this paragraph to the extent of the amount
27 of such tax properly due and paid in such other state
28 which was not previously allowed as a credit against any
29 other state or local tax in this State. However, such
30 tax is not imposed on the act or privilege to the extent
31 such act or privilege may not, under the Constitution and
32 statutes of the United States, be made the subject of
33 taxation by municipalities in this State.

34 (3) The taxes authorized by paragraphs (1) and (2)

1 of subsection (a) of this Section may only be levied if
2 such municipality does not then have in effect an
3 occupation tax imposed on persons engaged in the business
4 of transmitting messages by means of electricity as
5 authorized by Section 8-11-2 of the Illinois Municipal
6 Code.

7 (b) The tax authorized by this Section shall be
8 collected from the taxpayer by a retailer maintaining a place
9 of business in this State and making or effectuating the sale
10 at retail and shall be remitted by such retailer to the
11 municipality. Any tax required to be collected pursuant to
12 an ordinance authorized by this Section and any such tax
13 collected by such retailer shall constitute a debt owed by
14 the retailer to such municipality. Retailers shall collect
15 the tax from the taxpayer by adding the tax to the gross
16 charge for the act or privilege of originating or receiving
17 telecommunications when sold for use, in the manner
18 prescribed by the municipality. The tax authorized by this
19 Section shall constitute a debt of the purchaser to the
20 retailer who provides such taxable services until paid and,
21 if unpaid, is recoverable at law in the same manner as the
22 original charge for such taxable services. If the retailer
23 fails to collect the tax from the taxpayer, then the taxpayer
24 shall be required to pay the tax directly to the municipality
25 in the manner provided by the municipality. The municipality
26 imposing the tax shall provide for its administration and
27 enforcement.

28 Beginning January 1, 1994, retailers filing tax returns
29 pursuant to this Section shall, at the time of filing such
30 return, pay to the municipality the amount of the tax imposed
31 by this Section, less a commission of 1.75% which is allowed
32 to reimburse the retailer for the expenses incurred in
33 keeping records, billing the customer, preparing and filing
34 returns, remitting the tax and supplying data to the

1 municipality upon request. No commission may be claimed by a
2 retailer for tax not timely remitted to the municipality.

3 Whenever possible, the tax authorized by this Section
4 shall, when collected, be stated as a distinct item separate
5 and apart from the gross charge for telecommunications.

6 (c) For the purpose of the taxes authorized by this
7 Section:

8 (1) "Amount paid" means the amount charged to the
9 taxpayer's service address in such municipality
10 regardless of where such amount is billed or paid.

11 (2) "Gross charge" means the amount paid for the
12 act or privilege of originating or receiving
13 telecommunications in such municipality and for all
14 services rendered in connection therewith, valued in
15 money whether paid in money or otherwise, including cash,
16 credits, services and property of every kind or nature,
17 and shall be determined without any deduction on account
18 of the cost of such telecommunications, the cost of the
19 materials used, labor or service costs or any other
20 expense whatsoever. In case credit is extended, the
21 amount thereof shall be included only as and when paid.
22 However, "gross charge" shall not include:

23 (A) any amounts added to a purchaser's bill
24 because of a charge made pursuant to: (i) the tax
25 imposed by this Section, (ii) additional charges
26 added to a purchaser's bill pursuant to Section
27 9-222 of the Public Utilities Act, (iii) the tax
28 imposed by the Telecommunications Excise Tax Act, or
29 (iv) the tax imposed by Section 4251 of the Internal
30 Revenue Code;

31 (B) charges for a sent collect
32 telecommunication received outside of such
33 municipality;

34 (C) charges for leased time on equipment or

1 charges for the storage of data or information or
2 subsequent retrieval or the processing of data or
3 information intended to change its form or content.
4 Such equipment includes, but is not limited to, the
5 use of calculators, computers, data processing
6 equipment, tabulating equipment or accounting
7 equipment and also includes the usage of computers
8 under a time-sharing agreement;

9 (D) charges for customer equipment, including
10 such equipment that is leased or rented by the
11 customer from any source, wherein such charges are
12 disaggregated and separately identified from other
13 charges;

14 (E) charges to business enterprises certified
15 under Section 9-222.1 of the Public Utilities Act to
16 the extent of such exemption and during the period
17 of time specified by the Department of Commerce and
18 Community Affairs;

19 (F) charges for telecommunications and all
20 services and equipment provided in connection
21 therewith between a parent corporation and its
22 wholly owned subsidiaries or between wholly owned
23 subsidiaries when the tax imposed under this Section
24 has already been paid to a retailer and only to the
25 extent that the charges between the parent
26 corporation and wholly owned subsidiaries or between
27 wholly owned subsidiaries represent expense
28 allocation between the corporations and not the
29 generation of profit for the corporation rendering
30 such service;

31 (G) bad debts ("bad debt" means any portion of
32 a debt that is related to a sale at retail for which
33 gross charges are not otherwise deductible or
34 excludable that has become worthless or

1 uncollectable, as determined under applicable
2 federal income tax standards; if the portion of the
3 debt deemed to be bad is subsequently paid, the
4 retailer shall report and pay the tax on that
5 portion during the reporting period in which the
6 payment is made);

7 (H) charges paid by inserting coins in
8 coin-operated telecommunication devices; or

9 (I) amounts paid by telecommunications
10 retailers under the Telecommunications Municipal
11 Infrastructure Maintenance Fee Act.

12 (3) "Interstate telecommunications" means all
13 telecommunications that either originate or terminate
14 outside this State.

15 (4) "Intrastate telecommunications" means all
16 telecommunications that originate and terminate within
17 this State.

18 (5) "Person" means any natural individual, firm,
19 trust, estate, partnership, association, joint stock
20 company, joint venture, corporation, limited liability
21 company, or a receiver, trustee, guardian or other
22 representative appointed by order of any court, the
23 Federal and State governments, including State
24 universities created by statute, or any city, town,
25 county, or other political subdivision of this State.

26 (6) "Purchase at retail" means the acquisition,
27 consumption or use of telecommunications through a sale
28 at retail.

29 (7) "Retailer" means and includes every person
30 engaged in the business of making sales at retail as
31 defined in this Section. A municipality may, in its
32 discretion, upon application, authorize the collection of
33 the tax hereby imposed by any retailer not maintaining a
34 place of business within this State, who to the

1 satisfaction of the municipality, furnishes adequate
2 security to insure collection and payment of the tax.
3 Such retailer shall be issued, without charge, a permit
4 to collect such tax. When so authorized, it shall be the
5 duty of such retailer to collect the tax upon all of the
6 gross charges for telecommunications in such municipality
7 in the same manner and subject to the same requirements
8 as a retailer maintaining a place of business within such
9 municipality.

10 (8) "Retailer maintaining a place of business in
11 this State", or any like term, means and includes any
12 retailer having or maintaining within this State,
13 directly or by a subsidiary, an office, distribution
14 facilities, transmission facilities, sales office,
15 warehouse or other place of business, or any agent or
16 other representative operating within this State under
17 the authority of the retailer or its subsidiary,
18 irrespective of whether such place of business or agent
19 or other representative is located here permanently or
20 temporarily, or whether such retailer or subsidiary is
21 licensed to do business in this State.

22 (9) "Sale at retail" means the transmitting,
23 supplying or furnishing of telecommunications and all
24 services rendered in connection therewith for a
25 consideration, to persons other than the Federal and
26 State governments, and State universities created by
27 statute and other than between a parent corporation and
28 its wholly owned subsidiaries or between wholly owned
29 subsidiaries, when the tax has already been paid to a
30 retailer and the gross charge made by one such
31 corporation to another such corporation is not greater
32 than the gross charge paid to the retailer for their use
33 or consumption and not for resale.

34 (10) "Service address" means the location of

1 telecommunications equipment from which
2 telecommunications services are originated or at which
3 telecommunications services are received by a taxpayer.
4 For periods prior to August 1, 2002, if this is not a
5 defined location, as in the case of mobile phones, paging
6 systems, maritime systems, air-to-ground systems and the
7 like, "service address" shall mean the location of a
8 taxpayer's primary use of the telecommunication equipment
9 as defined by telephone number, authorization code, or
10 location in Illinois where bills are sent. For periods on
11 and after August 1, 2002, if this is not a defined
12 location, as in the case of mobile phones, paging
13 systems, and maritime systems, service address means the
14 customer's place of primary use as defined in the Mobile
15 Telecommunications Sourcing Conformity Act, and for
16 air-to-ground systems and the like, "service address"
17 shall mean the location of a taxpayer's primary use of
18 the telecommunications equipment as defined by telephone
19 number, authorization code, or location in Illinois where
20 bills are sent.

21 (11) "Taxpayer" means a person who individually or
22 through his agents, employees, or permittees engages in
23 the act or privilege of originating in such municipality
24 or receiving in such municipality telecommunications and
25 who incurs a tax liability under any ordinance authorized
26 by this Section.

27 (12) "Telecommunications", in addition to the usual
28 and popular meaning, includes, but is not limited to,
29 messages or information transmitted through use of local,
30 toll and wide area telephone service, channel services,
31 telegraph services, teletypewriter service, computer
32 exchange services; cellular mobile telecommunications
33 service, specialized mobile radio services, paging
34 service, or any other form of mobile and portable one-way

1 or two-way communications, or any other transmission of
2 messages or information by electronic or similar means,
3 between or among points by wire, cable, fiber optics,
4 laser, microwave, radio, satellite or similar facilities.
5 The definition of "telecommunications" shall not include
6 value added services in which computer processing
7 applications are used to act on the form, content, code
8 and protocol of the information for purposes other than
9 transmission. "Telecommunications" shall not include
10 purchase of telecommunications by a telecommunications
11 service provider for use as a component part of the
12 service provided by him to the ultimate retail consumer
13 who originates or terminates the taxable end-to-end
14 communications. Carrier access charges, right of access
15 charges, charges for use of inter-company facilities, and
16 all telecommunications resold in the subsequent provision
17 used as a component of, or integrated into, end-to-end
18 telecommunications service shall be non-taxable as sales
19 for resale. Beginning January 1, 2001, prepaid telephone
20 calling arrangements shall not be considered
21 "telecommunications" subject to the tax imposed under
22 this Act. For purposes of this Section, "prepaid
23 telephone calling arrangements" means that term as
24 defined in Section 2-27 of the Retailers' Occupation Tax
25 Act.

26 (d) If a person, who originates or receives
27 telecommunications in such municipality claims to be a
28 reseller of such telecommunications, such person shall apply
29 to the municipality for a resale number. Such applicant
30 shall state facts which will show the municipality why such
31 applicant is not liable for tax under any ordinance
32 authorized by this Section on any of such purchases and shall
33 furnish such additional information as the municipality may
34 reasonably require.

1 Upon approval of the application, the municipality shall
2 assign a resale number to the applicant and shall certify
3 such number to the applicant. The municipality may cancel
4 any number which is obtained through misrepresentation, or
5 which is used to send or receive such telecommunication
6 tax-free when such actions in fact are not for resale, or
7 which no longer applies because of the person's having
8 discontinued the making of resales.

9 Except as provided hereinabove in this Section, the act
10 or privilege of sending or receiving telecommunications in
11 this State shall not be made tax-free on the ground of being
12 a sale for resale unless the person has an active resale
13 number from the municipality and furnishes that number to the
14 retailer in connection with certifying to the retailer that
15 any sale to such person is non-taxable because of being a
16 sale for resale.

17 (e) A municipality that imposes taxes upon
18 telecommunications under this Section and whose territory
19 includes part of another unit of local government or a school
20 district may, by ordinance, exempt the other unit of local
21 government or school district from those taxes.

22 (f) A municipality that imposes taxes upon
23 telecommunications under this Section may, by ordinance, (i)
24 reduce the rate of the tax for persons 65 years of age or
25 older or (ii) exempt persons 65 years of age or older from
26 those taxes. Taxes related to such rate reductions or
27 exemptions shall be rebated from the municipality directly to
28 persons qualified for the rate reduction or exemption as
29 determined by the municipality's ordinance.

30 (g) A municipality with a population of more than
31 500,000 that imposes a tax under this Section may, by
32 ordinance, exempt from the tax all charges for the inbound
33 toll-free telecommunications service commonly known as "800",
34 "877", or "888" or for a similar service.

1 (h) This Section is repealed on January 1, 2003.

2 (Source: P.A. 90-357, eff. 1-1-98; 90-562, eff. 12-16-97;
3 91-870, eff. 6-22-00.)

4 Section 90-35. The Public Utilities Act is amended by
5 changing Sections 2-202 and 13-511 as follows:

6 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

7 Sec. 2-202. Policy; Public Utility Fund; tax.

8 (a) It is declared to be the public policy of this State
9 that in order to maintain and foster the effective regulation
10 of public utilities under this Act in the interests of the
11 People of the State of Illinois and the public utilities as
12 well, the public utilities subject to regulation under this
13 Act and which enjoy the privilege of operating as public
14 utilities in this State, shall bear the expense of
15 administering this Act by means of a tax on such privilege
16 measured by the annual gross revenue of such public utilities
17 in the manner provided in this Section. For purposes of this
18 Section, "expense of administering this Act" includes any
19 costs incident to studies, whether made by the Commission or
20 under contract entered into by the Commission, concerning
21 environmental pollution problems caused or contributed to by
22 public utilities and the means for eliminating or abating
23 those problems. Such proceeds shall be deposited in the
24 Public Utility Fund in the State treasury.

25 (b) All of the ordinary and contingent expenses of the
26 Commission incident to the administration of this Act shall
27 be paid out of the Public Utility Fund except the
28 compensation of the members of the Commission which shall be
29 paid from the General Revenue Fund. Notwithstanding other
30 provisions of this Act to the contrary, the ordinary and
31 contingent expenses of the Commission incident to the
32 administration of the Illinois Commercial Transportation Law

1 may be paid from appropriations from the Public Utility Fund
2 through the end of fiscal year 1986.

3 (c) A tax is imposed upon each public utility subject to
4 the provisions of this Act equal to .08% of its gross revenue
5 for each calendar year commencing with the calendar year
6 beginning January 1, 1982, except that the Commission may, by
7 rule, establish a different rate no greater than 0.1%. For
8 purposes of this Section, "gross revenue" shall not include
9 revenue from the production, transmission, distribution,
10 sale, delivery, or furnishing of electricity. "Gross revenue"
11 shall not include amounts paid by telecommunications
12 retailers under the Telecommunications ~~Municipal~~
13 Infrastructure Maintenance Fee Act.

14 (d) Annual gross revenue returns shall be filed in
15 accordance with paragraph (1) or (2) of this subsection (d).

16 (1) Except as provided in paragraph (2) of this
17 subsection (d), on or before January 10 of each year each
18 public utility subject to the provisions of this Act
19 shall file with the Commission an estimated annual gross
20 revenue return containing an estimate of the amount of
21 its gross revenue for the calendar year commencing
22 January 1 of said year and a statement of the amount of
23 tax due for said calendar year on the basis of that
24 estimate. Public utilities may also file revised returns
25 containing updated estimates and updated amounts of tax
26 due during the calendar year. These revised returns, if
27 filed, shall form the basis for quarterly payments due
28 during the remainder of the calendar year. In addition,
29 on or before March 31 of each year, each public utility
30 shall file an amended return showing the actual amount of
31 gross revenues shown by the company's books and records
32 as of December 31 of the previous year. Forms and
33 instructions for such estimated, revised, and amended
34 returns shall be devised and supplied by the Commission.

1 (2) Beginning with returns due after January 1,
2 2002, the requirements of paragraph (1) of this
3 subsection (d) shall not apply to any public utility in
4 any calendar year for which the total tax the public
5 utility owes under this Section is less than \$10,000.
6 For such public utilities with respect to such years, the
7 public utility shall file with the Commission, on or
8 before March 31 of the following year, an annual gross
9 revenue return for the year and a statement of the amount
10 of tax due for that year on the basis of such a return.
11 Forms and instructions for such returns and corrected
12 returns shall be devised and supplied by the Commission.

13 (e) All returns submitted to the Commission by a public
14 utility as provided in this subsection (e) or subsection (d)
15 of this Section shall contain or be verified by a written
16 declaration by an appropriate officer of the public utility
17 that the return is made under the penalties of perjury. The
18 Commission may audit each such return submitted and may,
19 under the provisions of Section 5-101 of this Act, take such
20 measures as are necessary to ascertain the correctness of the
21 returns submitted. The Commission has the power to direct the
22 filing of a corrected return by any utility which has filed
23 an incorrect return and to direct the filing of a return by
24 any utility which has failed to submit a return. A
25 taxpayer's signing a fraudulent return under this Section is
26 perjury, as defined in Section 32-2 of the Criminal Code of
27 1961.

28 (f) (1) For all public utilities subject to paragraph
29 (1) of subsection (d), at least one quarter of the annual
30 amount of tax due under subsection (c) shall be paid to the
31 Commission on or before the tenth day of January, April,
32 July, and October of the calendar year subject to tax. In
33 the event that an adjustment in the amount of tax due should
34 be necessary as a result of the filing of an amended or

1 corrected return under subsection (d) or subsection (e) of
2 this Section, the amount of any deficiency shall be paid by
3 the public utility together with the amended or corrected
4 return and the amount of any excess shall, after the filing
5 of a claim for credit by the public utility, be returned to
6 the public utility in the form of a credit memorandum in the
7 amount of such excess or be refunded to the public utility in
8 accordance with the provisions of subsection (k) of this
9 Section. However, if such deficiency or excess is less than
10 \$1, then the public utility need not pay the deficiency and
11 may not claim a credit.

12 (2) Any public utility subject to paragraph (2) of
13 subsection (d) shall pay the amount of tax due under
14 subsection (c) on or before March 31 next following the end
15 of the calendar year subject to tax. In the event that an
16 adjustment in the amount of tax due should be necessary as a
17 result of the filing of a corrected return under subsection
18 (e), the amount of any deficiency shall be paid by the public
19 utility at the time the corrected return is filed. Any excess
20 tax payment by the public utility shall be returned to it
21 after the filing of a claim for credit, in the form of a
22 credit memorandum in the amount of the excess. However, if
23 such deficiency or excess is less than \$1, the public utility
24 need not pay the deficiency and may not claim a credit.

25 (g) Each installment or required payment of the tax
26 imposed by subsection (c) becomes delinquent at midnight of
27 the date that it is due. Failure to make a payment as
28 required by this Section shall result in the imposition of a
29 late payment penalty, an underestimation penalty, or both, as
30 provided by this subsection. The late payment penalty shall
31 be the greater of:

32 (1) \$25 for each month or portion of a month that
33 the installment or required payment is unpaid or

34 (2) an amount equal to the difference between what

1 should have been paid on the due date, based upon the
2 most recently filed estimated, annual, or amended return,
3 and what was actually paid, times 1%, for each month or
4 portion of a month that the installment or required
5 payment goes unpaid. This penalty may be assessed as
6 soon as the installment or required payment becomes
7 delinquent.

8 The underestimation penalty shall apply to those public
9 utilities subject to paragraph (1) of subsection (d) and
10 shall be calculated after the filing of the amended return.
11 It shall be imposed if the amount actually paid on any of the
12 dates specified in subsection (f) is not equal to at least
13 one-fourth of the amount actually due for the year, and shall
14 equal the greater of:

15 (1) \$25 for each month or portion of a month that
16 the amount due is unpaid or

17 (2) an amount equal to the difference between what
18 should have been paid, based on the amended return, and
19 what was actually paid as of the date specified in
20 subsection (f), times a percentage equal to 1/12 of the
21 sum of 10% and the percentage most recently established
22 by the Commission for interest to be paid on customer
23 deposits under 83 Ill. Adm. Code 280.70(e)(1), for each
24 month or portion of a month that the amount due goes
25 unpaid, except that no underestimation penalty shall be
26 assessed if the amount actually paid on or before each of
27 the dates specified in subsection (f) was based on an
28 estimate of gross revenues at least equal to the actual
29 gross revenues for the previous year. The Commission may
30 enforce the collection of any delinquent installment or
31 payment, or portion thereof by legal action or in any
32 other manner by which the collection of debts due the
33 State of Illinois may be enforced under the laws of this
34 State. The executive director or his designee may excuse

1 the payment of an assessed penalty or a portion of an
2 assessed penalty if he determines that enforced
3 collection of the penalty as assessed would be unjust.

4 (h) All sums collected by the Commission under the
5 provisions of this Section shall be paid promptly after the
6 receipt of the same, accompanied by a detailed statement
7 thereof, into the Public Utility Fund in the State treasury.

8 (i) During the month of October of each odd-numbered
9 year the Commission shall:

10 (1) determine the amount of all moneys deposited in
11 the Public Utility Fund during the preceding fiscal
12 biennium plus the balance, if any, in that fund at the
13 beginning of that biennium;

14 (2) determine the sum total of the following items:

15 (A) all moneys expended or obligated against
16 appropriations made from the Public Utility Fund during
17 the preceding fiscal biennium, plus (B) the sum of the
18 credit memoranda then outstanding against the Public
19 Utility Fund, if any; and

20 (3) determine the amount, if any, by which the sum
21 determined as provided in item (1) exceeds the amount
22 determined as provided in item (2).

23 If the amount determined as provided in item (3) of this
24 subsection exceeds \$5,000,000, the Commission shall then
25 compute the proportionate amount, if any, which (x) the tax
26 paid hereunder by each utility during the preceding biennium,
27 and (y) the amount paid into the Public Utility Fund during
28 the preceding biennium by the Department of Revenue pursuant
29 to Sections 2-9 and 2-11 of the Electricity Excise Tax Law,
30 bears to the difference between the amount determined as
31 provided in item (3) of this subsection (i) and \$5,000,000.
32 The Commission shall cause the proportionate amount
33 determined with respect to payments made under the
34 Electricity Excise Tax Law to be transferred into the General

1 Revenue Fund in the State Treasury, and notify each public
2 utility that it may file during the 3 month period after the
3 date of notification a claim for credit for the proportionate
4 amount determined with respect to payments made hereunder by
5 the public utility. If the proportionate amount is less than
6 \$10, no notification will be sent by the Commission, and no
7 right to a claim exists as to that amount. Upon the filing of
8 a claim for credit within the period provided, the Commission
9 shall issue a credit memorandum in such amount to such public
10 utility. Any claim for credit filed after the period provided
11 for in this Section is void.

12 (j) Credit memoranda issued pursuant to subsection (f)
13 and credit memoranda issued after notification and filing
14 pursuant to subsection (i) may be applied for the 2 year
15 period from the date of issuance, against the payment of any
16 amount due during that period under the tax imposed by
17 subsection (c), or, subject to reasonable rule of the
18 Commission including requirement of notification, may be
19 assigned to any other public utility subject to regulation
20 under this Act. Any application of credit memoranda after the
21 period provided for in this Section is void.

22 (k) The chairman or executive director may make refund
23 of fees, taxes or other charges whenever he shall determine
24 that the person or public utility will not be liable for
25 payment of such fees, taxes or charges during the next 24
26 months and he determines that the issuance of a credit
27 memorandum would be unjust.

28 (Source: P.A. 92-11, eff. 6-11-01; 92-22, eff. 6-30-01.)

29 (220 ILCS 5/13-511)

30 (Section scheduled to be repealed on July 1, 2005)

31 Sec. 13-511. Telecommunications ~~Municipal~~ Infrastructure
32 Maintenance Fee Act; rate adjustments. With respect to any
33 telecommunications retailer that is regulated by the Illinois

1 Commerce Commission, the Commission shall order such rate
 2 adjustments as shall be necessary to assure that the
 3 implementation of the Telecommunications Municipal
 4 Infrastructure Maintenance Fee Act, ~~including the payment of~~
 5 ~~the State infrastructure maintenance fee, optional~~
 6 ~~infrastructure maintenance fee, and municipal infrastructure~~
 7 ~~maintenance fee, if any,~~ net of (1) the termination of any
 8 fee, license fee, rent, or lease payment subject to the
 9 Telecommunications Municipal Infrastructure Maintenance Fee
 10 Act, and (2) the repeal of any invested capital tax subject
 11 to the Telecommunications Municipal Infrastructure
 12 Maintenance Fee Act, shall have no significant impact on the
 13 net income of each such telecommunications retailer.
 14 Beginning with the effective date of the Telecommunications
 15 Municipal Infrastructure Maintenance Fee Act, each such
 16 telecommunications retailer shall maintain such records and
 17 accounts as will enable the Commission to make such findings
 18 and determinations as are necessary to such order.

19 (Source: P.A. 90-154, eff. 1-1-98.)

20 Section 90-40. The Telephone Company Act is amended by
 21 changing Section 4 as follows:

22 (220 ILCS 65/4) (from Ch. 134, par. 20)

23 Sec. 4. Right of condemnation. Every telecommunications
 24 ~~telecommunications~~ carrier as defined in the
 25 Telecommunications Municipal Infrastructure Maintenance Fee
 26 Act may, when it shall be necessary for the construction,
 27 maintenance, alteration or extension of its
 28 telecommunications system, or any part thereof, enter upon,
 29 take or damage private property in the manner provided for
 30 in, and the compensation therefor shall be ascertained and
 31 made in conformity to the provisions of the Telegraph Act and
 32 every telecommunications carrier is authorized to construct,

1 maintain, alter and extend its poles, wires, and other
2 appliances as a proper use of highways, along, upon, under
3 and across any highway, street, alley, public right-of-way
4 dedicated or commonly used for utility purposes, or water in
5 this State, but so as not to incommode the public in the use
6 thereof: Provided, that nothing in this act shall interfere
7 with the control now vested in cities, incorporated towns and
8 villages in relation to the regulation of the poles, wires,
9 cables and other appliances, and provided, that before any
10 such lines shall be constructed along any such highway,
11 street, alley, public right-of-way dedicated or commonly used
12 for utility purposes, or water it shall be the duty of the
13 telecommunications carrier proposing to construct any such
14 line, to give (in the case of cities, villages, and
15 incorporated towns) to the corporate authorities of the
16 municipality or their designees (hereinafter, municipal
17 corporate authorities) or (in other cases) to the highway
18 commissioners having jurisdiction and control over the road
19 or part thereof along and over which such line is proposed to
20 be constructed, notice in writing in the form of plans,
21 specifications, and documentation of the purpose and
22 intention of the company to construct such line over and
23 along the highway, street, alley, public right-of-way
24 dedicated or commonly used for utility purposes, or water,
25 which notice shall be served at least 10 days before the line
26 shall be placed or constructed over and along the highway,
27 street, alley, public right-of-way dedicated or commonly used
28 for utility purposes, or water (30 days in the case of any
29 notice providing for excavation relating to new construction
30 in a public highway, street, alley, public right-of-way
31 dedicated or commonly used for utility purposes, or water);
32 and upon the giving of the notice it shall be the duty of the
33 municipal corporate authorities or the highway commissioners
34 to specify the portion of such highway, street, alley, public

1 right-of-way dedicated or commonly used for utility purposes,
2 or water upon which the line may be placed, used, and
3 constructed, and it shall thereupon be the duty of the
4 telecommunications retailer to provide the municipal
5 authorities or highway commissioners with any and all plans,
6 specifications, and documentation available and to construct
7 its line in accordance with such specifications; but in the
8 event that the municipal corporate authorities or the highway
9 commissioners fail to provide such specification within 10
10 days after the service of such notice, (25 days in the case
11 of excavation relating to new construction) then the
12 telecommunications retailer, without such specification
13 having been made, may proceed to place and erect its line
14 along the highway, street, alley, public right-of-way
15 dedicated or commonly used for utility purposes, or water by
16 placing its posts, poles and abutments so as not to interfere
17 with other proper uses of the highway, street, alley, public
18 right-of-way dedicated or commonly used for utility purposes,
19 or water. The telecommunications carrier proposing to
20 construct any such line shall comply with the provisions of
21 Section 9-113 of the Illinois Highway Code. Provided, that
22 the telecommunications carrier shall not have the right to
23 condemn any portion of the right-of-way of any railroad
24 company except as much thereof as is necessary to cross the
25 same.

26 The Illinois Commerce Commission may adopt reasonable
27 rules governing the negotiation procedures that are used by a
28 telecommunications carrier during precondemnation
29 negotiations for the purchase of land rights-of-way and
30 easements, including procedures for providing information to
31 the public and affected landowners concerning the project and
32 the right-of-way easements sought in connection therewith.

33 Such rules may be made applicable to interstate,
34 competitive intrastate and noncompetitive intrastate

1 facilities, without regard to whether such facilities or the
2 telecommunications carrier proposing to construct and operate
3 them would otherwise be subject to the Illinois Commerce
4 Commission's jurisdiction under The Public Utilities Act, as
5 now or hereafter amended. However, as to facilities used to
6 provide exclusively interstate services or competitive
7 intrastate services or both, nothing in this Section confers
8 any power upon the Commission (i) to require the disclosure
9 of proprietary, competitively sensitive, or cost information
10 or information not known to the telecommunications carrier,
11 (ii) to determine whether, or conduct hearings regarding
12 whether, any proposed fiber optic or other facilities should
13 or should not be constructed and operated, or (iii) to
14 determine or specify, or conduct hearings concerning, the
15 price or other terms or conditions of the purchase of the
16 right-of-way easements sought. With respect to facilities
17 used to provide any intrastate services classified in the
18 condemnor's tariff as noncompetitive under Section 13-502 of
19 The Public Utilities Act, the rulemaking powers conferred
20 upon the Commission under this Section are in addition to any
21 rulemaking powers arising under The Public Utilities Act.

22 No telecommunications carrier shall exercise the power to
23 condemn private property until it has first substantially
24 complied with such rules with respect to the property sought
25 to be condemned. If such rules call for providing notice or
26 information before or during negotiations, a failure to
27 provide such notice or information shall not constitute a
28 waiver of the rights granted in this Section, but the
29 telecommunications carrier shall be liable for all reasonable
30 attorney's fees of that landowner resulting from such
31 failure.

32 (Source: P.A. 90-154, eff. 1-1-98.)

