



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB1794

Introduced 2/26/2021, by Sen. Laura M. Murphy

#### SYNOPSIS AS INTRODUCED:

50 ILCS 45/30  
65 ILCS 5/8-11-2.5

Amends the Local Government Taxpayers' Bill of Rights Act. Provides that the statute of limitations set by a unit of local government for the determination and assessment of taxes covered by the Act may not exceed 10 years (currently, 4 years) after the end of the calendar year for which the return for the period was filed or the end of the calendar year in which the return for the period was due, whichever occurs later. Makes conforming changes concerning the tolling of this 10-year period. Amends the Illinois Municipal Code. In a Section concerning municipal audits of public utilities, provides that municipalities may request information from public utilities no more than annually (currently, no more than once every 2 years). Provides that, if the public utility fails to respond in a timely manner to the request for information with complete information, the public utility shall be liable to the municipality for a penalty of \$1,000 for each day it fails to produce the requested information. Provides that, if a public utility is liable for any error in past tax payments in excess of \$5,000 that were unknown prior to an audit from the municipality, then the public utility shall reimburse the municipality for the cost of the audit. Sets forth conditions under which the public utility may be liable for attorney's fees incurred by the municipality.

LRB102 15982 HLH 21352 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

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

6 (50 ILCS 45/30)

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

16 (1) No notice of determination of tax due or  
17 assessment may be issued more than 10 4 years after the end  
18 of the calendar year for which the return for the period  
19 was filed or the end of the calendar year in which the  
20 return for the period was due, whichever occurs later. An  
21 audit or review pursuant to Section 35 of this Act or  
22 Section 8-11-2.5 of the Illinois Municipal Code shall toll  
23 this 10-year period.

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

13           The changes to this Section made by this amendatory  
14          Act of the 102nd General Assembly do not revive any  
15          determination and assessment of tax due where the statute  
16          of limitations has expired, but do extend the current  
17          statute of limitations for the determination and  
18          assessment of taxes that have not yet expired.

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

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

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

24                 (65 ILCS 5/8-11-2.5)

1           Sec. 8-11-2.5. Municipal tax review; requests for  
2 information.

3           (a) If a municipality has imposed a tax under Section  
4 8-11-2, then the municipality may conduct an audit of tax  
5 receipts collected from the public utility that is subject to  
6 the tax or that collects the tax from purchasers on behalf of  
7 the municipality to determine whether the amount of tax that  
8 was paid by the public utility was accurate.

9           (b) Not more than once annually ~~every 2 years~~, a  
10 municipality that has imposed a tax under this Act may,  
11 subject to the limitations and protections stated in Section  
12 16-122 of the Public Utilities Act and in the Local Government  
13 Taxpayers' Bill of Rights Act, request any information from a  
14 utility in the format maintained by the public utility in the  
15 ordinary course of its business that the municipality  
16 reasonably requires in order to perform an audit under  
17 subsection (a). The information that may be requested by the  
18 municipality includes, without limitation:

19           (1) in an electronic format used by the public utility  
20 in the ordinary course of its business, the database used  
21 by the public utility to determine the amount of tax due to  
22 the municipality; provided, however, that, if the  
23 municipality has requested customer-specific billing,  
24 usage, and load shape data from a public utility that is an  
25 electric utility and has not provided the electric utility  
26 with the verifiable authorization required by Section

1 16-122 of the Public Utilities Act, then the electric  
2 utility shall remove from the database all  
3 customer-specific billing, usage, and load shape data  
4 before providing it to the municipality; and

5 (2) in a format used by the public utility in the  
6 ordinary course of its business, summary data, as needed  
7 by the municipality, to determine the unit consumption of  
8 utility services by providing the gross therms, kilowatts,  
9 minutes, or other units of measurement being taxed within  
10 the municipal jurisdiction and the gross revenues  
11 collected and the associated taxes assessed.

12 (c) Each public utility must provide the information  
13 requested under subsection (b) within:

14 (1) 60 days after the date of the request if the  
15 population of the requesting municipality is 500,000 or  
16 less; or

17 (2) 90 days after the date of the request if the  
18 population of the requesting municipality exceeds 500,000.

19 The time in which a public utility must provide the  
20 information requested under subsection (b) may be extended by  
21 an agreement between the municipality and the public utility.  
22 If the public utility fails to respond to the request for  
23 information with complete information pursuant to the timeline  
24 established by this Section, the public utility shall be  
25 liable to the municipality for a penalty of \$1,000 for each day  
26 it fails to produce the requested information. ~~If a public~~

1 ~~utility receives, during a single month, information requests~~  
2 ~~from more than 2 municipalities, or the aggregate population~~  
3 ~~of the requesting municipalities is 100,000 customers or more,~~  
4 ~~the public utility is entitled to an additional 30 days to~~  
5 ~~respond to those requests.~~

6 (d) If an audit by the municipality or its agents finds an  
7 error by the public utility in the amount of taxes paid by the  
8 public utility, then the municipality must notify the public  
9 utility of the error. Any such notice must be issued pursuant  
10 to Section 30 of the Local Government Taxpayers' Bill of  
11 Rights Act or a lesser period of time from the date the tax was  
12 due that may be specified in the municipal ordinance imposing  
13 the tax. Upon such a notice, any audit shall be conducted  
14 pursuant to Section 35 of the Local Government Taxpayers' Bill  
15 of Rights Act subject to the timelines set forth in this  
16 subsection (d). The public utility must submit a written  
17 response within 60 days after the date the notice was  
18 postmarked stating that it has corrected the error or stating  
19 the reason that the error is inapplicable or inaccurate. The  
20 municipality then has 60 days after the receipt of the public  
21 utility's response to review and contest the conclusion of the  
22 public utility. If the parties are unable to agree on the  
23 disposition of the audit findings within 120 days after the  
24 notification of the error to the public utility, then either  
25 party may submit the matter for appeal as outlined in Section  
26 40 of the Local Government Taxpayers' Bill of Rights Act. If

1 the appeals process does not produce a satisfactory result,  
2 then either party may pursue the alleged error in a court of  
3 competent jurisdiction. If the municipality prevails and  
4 receives at least 50% of the relief requested in court, the  
5 public utility is liable for the attorney's fees and costs of  
6 the municipality.

7 (d-5) If a public utility is liable for any error or errors  
8 in past tax payments cumulatively in excess of \$5,000 that  
9 were unknown prior to an audit from the municipality, the  
10 public utility shall reimburse the municipality for the cost  
11 of the audit in addition to any interest and penalties  
12 imposed.

13 (e) (Blank). ~~No public utility is liable for any error in~~  
14 ~~past collections and payments that was unknown by it prior to~~  
15 ~~the audit process unless (i) the error was due to negligence by~~  
16 ~~the public utility in the collection or processing of required~~  
17 ~~data and (ii) the municipality had not failed to respond in~~  
18 ~~writing on an accurate and timely basis to any written request~~  
19 ~~of the public utility to review and correct information used~~  
20 ~~by the public utility to collect the municipality's tax if a~~  
21 ~~diligent review of such information by the municipality~~  
22 ~~reasonably could have been expected to discover such error.~~  
23 ~~If, however, an error in past collections or payments resulted~~  
24 ~~in a customer, who should not have owed a tax to any~~  
25 ~~municipality, having paid a tax to a municipality, then the~~  
26 ~~customer may, to the extent allowed by Section 9 252 of the~~

1 ~~Public Utilities Act, recover the tax from the public utility,~~  
2 ~~and any amount so paid by the public utility may be deducted by~~  
3 ~~that public utility from any taxes then or thereafter owed by~~  
4 ~~the public utility to that municipality.~~

5 (f) All account specific information provided by a public  
6 utility under this Section may be used only for the purpose of  
7 an audit of taxes conducted under this Section and the  
8 enforcement of any related tax claim. All such information  
9 must be held in strict confidence by the municipality and its  
10 agents and may not be disclosed to the public under the Freedom  
11 of Information Act or under any other similar statutes  
12 allowing for or requiring public disclosure.

13 (g) The provisions of this Section shall not be construed  
14 as diminishing or replacing any civil remedy available to a  
15 municipality, taxpayer, or tax collector.

16 (h) This Section does not apply to any municipality having  
17 a population greater than 1,000,000.

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