



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 678

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 678 by replacing  
3 everything after the enacting clause with the following:

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

6 (35 ILCS 200/23-15)

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

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

22 (b) (1) The court, sitting without a jury, shall hear and  
23 determine all objections specified to the taxes, assessments,  
24 or levies in question. This Section shall be construed to

1 provide a complete remedy for any claims with respect to those  
2 taxes, assessments, or levies, excepting only matters for which  
3 an exclusive remedy is provided elsewhere in this Code.

4 (2) The taxes, assessments, and levies that are the subject  
5 of the objection shall be presumed correct and legal, but the  
6 presumption is rebuttable. The plaintiff has the burden of  
7 proving any contested matter of fact by clear and convincing  
8 evidence.

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

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

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

30 (e) In counties with less than 3,000,000 inhabitants, if  
31 the court renders a decision lowering the assessment of a  
32 particular parcel on which a residence occupied by the owner is  
33 situated, the reduced assessment, subject to equalization,  
34 shall remain in effect for the remainder of the general

1 assessment period as provided in Sections 9-215 through 9-225,  
2 unless that parcel is subsequently sold in an arm's length  
3 transaction establishing a fair cash value for the parcel that  
4 is different from the fair cash value on which the court's  
5 assessment is based, or unless the decision of the court is  
6 reversed or modified upon review.

7 (f) In property tax rate objection cases, refunds may be  
8 granted only to the extent that the property taxes objected to  
9 were above the limit allowed by law or were used for  
10 expenditures that were both illegal and without a valid public  
11 purpose. This amendatory Act of the 94th General Assembly  
12 applies to all final refund orders entered on or after the  
13 effective date of this amendatory Act of the 94th General  
14 Assembly.

15 (Source: P.A. 88-455; 88-642, eff. 9-9-94; 89-126, eff.  
16 7-11-95; 89-290, eff. 1-1-96; 89-593, eff. 8-1-96; 89-626, eff.  
17 8-9-96.)

18 (35 ILCS 200/23-20)

19 Sec. 23-20. Effect of protested payments; refunds. No  
20 protest shall prevent or be a cause of delay in the  
21 distribution of tax collections to the taxing districts of any  
22 taxes collected which were not paid under protest. If the final  
23 order of the Property Tax Appeal Board or of a court results in  
24 a refund to the taxpayer, refunds shall be made by the  
25 collector from funds remaining in the Protest Fund until such  
26 funds are exhausted and thereafter from the next funds  
27 collected beginning in the second budget year after entry of  
28 the final order until full payment of the refund and interest  
29 thereon has been made. Interest from the date of payment,  
30 regardless of whether the payment was made before the effective  
31 date of this amendatory Act of 1997, or from the date payment  
32 is due, whichever is later, to the date of refund shall also be  
33 paid to the taxpayer at the rate of 5% per year. This

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

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

5 (35 ILCS 200/23-35)

6 Sec. 23-35. Tax objection based on budget or appropriation  
7 ordinance. Notwithstanding the provisions of Section 23-10, no  
8 objection to any property tax levied by any municipality shall  
9 be sustained by any court because of the forms of any budget or  
10 appropriation ordinance, or the degree of itemization or  
11 classification of items therein, or the reasonableness of any  
12 amount budgeted or appropriated thereby, or the transfer of  
13 assets from one fund or use to another fund or use, or any  
14 other matter that is included in the budget or appropriation  
15 ordinance and could be cured prior to adoption of the final  
16 budget and appropriation ordinance, if:

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

23 (b) at least one public hearing has been held by the  
24 governing body as to the tentative budget and appropriation  
25 ordinance prior to final action thereon, and notice of the  
26 time and place where copies of the tentative budget and  
27 appropriation ordinances are available for public  
28 inspection, and the time and place of the hearing, has been  
29 given by publication in a newspaper published in the  
30 municipality at least 30 days prior to the time of the  
31 hearing, or such other time as may be required by the  
32 municipality's enabling act, or, if there is no newspaper  
33 published in the municipality, notice of the public hearing

1 has been given by publication in a newspaper of general  
2 circulation in the municipality; and

3 (c) the budget and appropriation ordinance finally  
4 adopted is substantially identical, as to the matters to  
5 which objection is made, with the tentative budget and  
6 appropriation ordinance submitted for discussion at the  
7 public hearing, unless the taxpayer making the objection  
8 has made the same objection in writing and with the same  
9 specificity to the governing body of the municipality on or  
10 prior to the date of the public hearing ~~adoption of the~~  
11 ~~budget and appropriation ordinance.~~

12 "Municipality", as used in this Section, means all  
13 municipal corporations in, and political subdivisions of, this  
14 State ~~except the following: counties; cities, villages and~~  
15 ~~incorporated towns; sanitary districts created under the~~  
16 ~~Metropolitan Water Reclamation District Act; forest preserve~~  
17 ~~districts having a population of 3,000,000 or more, created~~  
18 ~~under the Cook County Forest Preserve Park District Act; boards~~  
19 ~~of education of school districts in cities exceeding 1,000,000~~  
20 ~~inhabitants; the Chicago Park District created under the~~  
21 ~~Chicago Park District Act; and park districts as defined in~~  
22 ~~subsection (b) of Section 1-3 of the Park District Code.~~

23 This amendatory Act of the 94th General Assembly applies to  
24 all property tax levies based on budgets or appropriation  
25 ordinances adopted on or after the effective date of this  
26 amendatory Act of the 94th General Assembly.

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

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