

1 AN ACT concerning telecommunications.

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

4 ARTICLE 5

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

7 Section 5-5. Legislative intent. The General Assembly has
8 authorized the corporate authorities of any municipality to
9 impose various fees and taxes on the privilege of originating
10 or receiving telecommunications, and on retailers engaged in
11 the business of transmitting such telecommunications, all of
12 which are remitted by such retailers directly to the imposing
13 municipality. To simplify the imposition and collection of
14 municipal telecommunications taxes and to reduce complication
15 and burden, the General Assembly is repealing the municipal
16 telecommunications tax, the municipal tax on the occupation
17 or privilege of transmitting messages, and the municipal
18 infrastructure maintenance fee, and is enacting this
19 Simplified Municipal Telecommunications Tax Act which
20 provides for a single municipally imposed telecommunications
21 tax which, for municipalities with populations of less than
22 500,000, will be collected by the Illinois Department of
23 Revenue, but which, for municipalities of 500,000 or more,
24 will continue to be collected by such municipalities.

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

27 "Amount paid" means the amount charged to the taxpayer's
28 service address in such municipality regardless of where such
29 amount is billed or paid.

1 "Department" means the Illinois Department of Revenue.

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

18 (1) any amounts added to a purchaser's bill because
19 of a charge made pursuant to: (i) the tax imposed by this
20 Act, (ii) the tax imposed by the Telecommunications
21 Excise Tax Act, (iii) the tax imposed by Section 4251 of
22 the Internal Revenue Code, (iv) 911 surcharges, or (v)
23 charges added to customers' bills pursuant to the
24 provisions of Section 9-221 or 9-222 of the Public
25 Utilities Act, as amended, or any similar charges added
26 to customers' bills by retailers who are not subject to
27 rate regulation by the Illinois Commerce Commission for
28 the purpose of recovering any of the tax liabilities or
29 other amounts specified in those provisions of the Public
30 Utilities Act;

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

33 (3) charges for leased time on equipment or charges
34 for the storage of data or information for subsequent

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

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

11 (5) charges to business enterprises certified as
12 exempt under Section 9-222.1 of the Public Utilities Act
13 to the extent of such exemption and during the period of
14 time specified by the Department of Commerce and
15 Community Affairs;

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

26 (7) bad debts ("bad debt" means any portion of a
27 debt that is related to a sale at retail for which gross
28 charges are not otherwise deductible or excludable that
29 has become worthless or uncollectible, as determined
30 under applicable federal income tax standards; if the
31 portion of the debt deemed to be bad is subsequently
32 paid, the retailer shall report and pay the tax on that
33 portion during the reporting period in which the payment
34 is made);

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

3 (9) amounts paid by telecommunications retailers
4 under the Telecommunications Infrastructure Maintenance
5 Fee Act.

6 "Interstate telecommunications" means all
7 telecommunications that either originate or terminate outside
8 this State.

9 "Intrastate telecommunications" means all
10 telecommunications that originate and terminate within this
11 State.

12 "Person" means any natural individual, firm, trust,
13 estate, partnership, association, joint stock company, joint
14 venture, corporation, limited liability company, or a
15 receiver, trustee, guardian, or other representative
16 appointed by order of any court, the Federal and State
17 governments, including State universities created by statute,
18 or any city, town, county, or other political subdivision of
19 this State.

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

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

1 within this State. The permit may be revoked by the
2 Department at its discretion.

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

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

22 "Service address" means the location of
23 telecommunications equipment from which telecommunications
24 services are originated or at which telecommunications
25 services are received by a taxpayer. In the event this may
26 not be a defined location, as in the case of mobile phones,
27 paging systems, and maritime systems, service address means
28 the customer's place of primary use as defined in the Mobile
29 Telecommunications Sourcing Conformity Act. For
30 air-to-ground systems and the like, "service address" shall
31 mean the location of a taxpayer's primary use of the
32 telecommunications equipment as defined by telephone number,
33 authorization code, or location in Illinois where bills are
34 sent.

1 "Taxpayer" means a person who individually or through his
2 or her agents, employees, or permittees engages in the act or
3 privilege of originating or receiving telecommunications in a
4 municipality and who incurs a tax liability as authorized by
5 this Act.

6 "Telecommunications", in addition to the meaning
7 ordinarily and popularly ascribed to it, includes, without
8 limitation, messages or information transmitted through use
9 of local, toll, and wide area telephone service, private line
10 services, channel services, telegraph services,
11 teletypewriter, computer exchange services, cellular mobile
12 telecommunications service, specialized mobile radio,
13 stationary two-way radio, paging service, or any other form
14 of mobile and portable one-way or two-way communications, or
15 any other transmission of messages or information by
16 electronic or similar means, between or among points by wire,
17 cable, fiber optics, laser, microwave, radio, satellite, or
18 similar facilities. As used in this Act, "private line"
19 means a dedicated non-traffic sensitive service for a single
20 customer, that entitles the customer to exclusive or priority
21 use of a communications channel or group of channels, from
22 one or more specified locations to one or more other
23 specified locations. The definition of "telecommunications"
24 shall not include value added services in which computer
25 processing applications are used to act on the form, content,
26 code, and protocol of the information for purposes other than
27 transmission. "Telecommunications" shall not include
28 purchases of telecommunications by a telecommunications
29 service provider for use as a component part of the service
30 provided by such provider to the ultimate retail consumer who
31 originates or terminates the taxable end-to-end
32 communications. Carrier access charges, right of access
33 charges, charges for use of inter-company facilities, and all
34 telecommunications resold in the subsequent provision of,

1 used as a component of, or integrated into, end-to-end
2 telecommunications service shall be non-taxable as sales for
3 resale. Prepaid telephone calling arrangements shall not be
4 considered "telecommunications" subject to the tax imposed
5 under this Act. For purposes of this Section, "prepaid
6 telephone calling arrangements" means that term as defined in
7 Section 2-27 of the Retailers' Occupations Tax Act.

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

11 (a) The act or privilege of originating in such
12 municipality or receiving in such municipality intrastate
13 telecommunications by a person. However, such tax is not
14 imposed on such act or privilege to the extent such act or
15 privilege may not, under the Constitution and statutes of the
16 United States, be made the subject of taxation by
17 municipalities in this State.

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

1 Section 5-15. Maximum rates.

2 (a) For municipalities with a population of less than
3 500,000, the tax authorized by this Act may be imposed at a
4 rate not to exceed 6% of the gross charge for
5 telecommunications purchased at retail. If imposed, the tax
6 must be in increments of 0.25%.

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

12 Section 5-20. Imposition.

13 (a) On and after January 1, 2003, for municipalities
14 with populations of less than 500,000, the tax authorized by
15 this Act shall be imposed (except as provided in Sections
16 5-25 and 5-30 of this Act), amended, or repealed by an
17 ordinance adopted by the municipality, which ordinance shall
18 be filed by the municipality with the Department pursuant to
19 the rules of the Department.

20 (1) Any ordinance adopted by a municipality with a
21 population of less than 500,000 which attempts to impose,
22 amend or repeal the tax authorized by this Act shall be
23 of no force and effect until properly filed with an
24 appropriate form with the Department.

25 (2) Any certified copy of an ordinance filed with
26 the Department prior to October 1, 2002 shall be
27 effective with respect to gross charges billed by
28 telecommunications retailers on or after January 1, 2003
29 and thereafter any certified copy of an ordinance filed
30 with the Department prior to any April 1 or October 1
31 shall be effective with respect to gross charges billed
32 by telecommunications retailers on or after the following
33 July 1 or January 1, respectively.

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

6 Section 5-25. Existing telecommunications taxes and
7 fees.

8 (a) Between July 1, 2002 and August 1, 2002, the
9 Department shall publish a list of the municipalities with a
10 population of less than 500,000 that have, at any time before
11 the effective date of this Act, enacted ordinances imposing
12 any taxes or fees authorized by subparagraph 1 of Section
13 8-11-2 of the Illinois Municipal Code, Section 8-11-17 of the
14 Illinois Municipal Code, or Section 20 of the
15 Telecommunications Infrastructure Maintenance Fee Act. Such
16 list shall include the name of each such municipality, the
17 rates at which such taxes or fees are imposed as of the
18 effective date of this Act, and the rate of the new
19 Simplified Municipal Telecommunications Tax, as calculated
20 pursuant to Section 5-30 of this Act.

21 (b) In compiling the list described in this Section, the
22 Department shall collect information from retailers,
23 municipalities, the Illinois Commerce Commission, and other
24 sources deemed by the Department to be reliable.

25 (c) Any municipality appearing on the list published
26 pursuant to this Section shall not be required to adopt and
27 file an ordinance implementing the tax authorized by this
28 Act. The list shall be conclusive evidence of the imposition
29 of the tax authorized by this Act at the rate appearing on
30 such list. Any tax imposed in such manner shall take effect
31 with respect to gross charges billed by telecommunications
32 retailers on or after January 1, 2003. A municipality may
33 alter such tax only by filing an ordinance with the

1 Department pursuant to Section 5-20 of this Act.

2 Section 5-30. Calculation of rates for certain
3 municipalities. The rate of the Simplified Municipal
4 Telecommunications Tax for municipalities on the list
5 described in Section 5-25 of this Act shall be measured by
6 the sum of the following rates set forth in ordinances
7 enacted by the municipalities at the rates in effect on the
8 effective date of this Act:

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

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

16 (3) The rate set forth in such ordinance pursuant
17 to Section 20 of the Telecommunications Infrastructure
18 Maintenance Fee Act.

19 Section 5-35. Rebates and exemptions. Any municipality
20 may implement the following rebates and exemptions:

21 (1) A municipality that imposes the tax authorized
22 by this Act and whose territory includes part of another
23 unit of local government or a school district, may, by
24 separate ordinance, rebate some or all of the amount of
25 such tax paid by the other unit of local government or
26 school district. Any such rebate shall be paid by the
27 municipality directly to the other unit of local
28 government or school district qualifying for the rebate
29 as determined by the municipality's ordinance, which
30 shall not be filed with the Department.

31 (2) A municipality that imposes the tax authorized
32 by this Act may, by separate ordinance, rebate some or

1 all of the amount of such tax to persons 65 years of age
2 or older. Any tax related to such rebate shall be
3 rebated from the municipality directly to persons
4 qualified for the rebate as determined by the
5 municipality's ordinance, which shall not be filed with
6 the Department.

7 (3) A municipality with a population of 500,000 or
8 more that imposes the tax authorized by this Act may, by
9 separate ordinance, exempt from the tax authorized by
10 this Act, charges for inbound toll-free
11 telecommunications service commonly known as "800",
12 "877", or "888" or for a similar service, to the extent
13 such municipality has passed an ordinance providing for
14 this exemption.

15 Section 5-40. Collection.

16 (a) For municipalities with populations of less than
17 500,000, the tax authorized by this Act shall be collected
18 from the taxpayer by a retailer maintaining a place of
19 business in this State and shall be remitted by such retailer
20 to the Department. Any tax required to be collected pursuant
21 to or as authorized by this Act and any such tax collected by
22 such retailer and required to be remitted to the Department
23 shall constitute a debt owed by the retailer to the State.
24 Retailers shall collect the tax from the taxpayer by adding
25 the tax to the gross charge for the act or privilege of
26 originating or receiving telecommunications when sold for
27 use, in the manner prescribed by the Department. The tax
28 authorized by this Act shall constitute a debt of the
29 taxpayer to the retailer until paid, and, if unpaid, is
30 recoverable at law in the same manner as the original charge
31 for such sale at retail. If the retailer fails to collect
32 the tax from the taxpayer, then the taxpayer shall be
33 required to pay the tax directly to the Department in the

1 manner provided by the Department.

2 (b) For municipalities with populations of 500,000 or
3 more, the tax authorized by this Act shall be collected from
4 the taxpayer by a retailer making or effectuating the sale at
5 retail and shall be remitted by such retailer to such
6 municipality. Any tax required to be collected pursuant to
7 an ordinance authorized by this Act and any such tax
8 collected by a retailer shall constitute a debt owed by the
9 retailer to such municipality. Retailers shall collect the
10 tax from the taxpayer by adding the tax to the gross charge
11 for the act or privilege of originating or receiving
12 telecommunications when sold for use, in the manner
13 prescribed by such municipality. The tax authorized by this
14 Act shall constitute a debt of the taxpayer to the retailer
15 who made or effectuated the sale at retail until paid and, if
16 unpaid, is recoverable at law in the same manner as the
17 original charge for the sale at retail. If the retailer
18 fails to collect the tax from the taxpayer, then the taxpayer
19 shall be required to pay the tax directly to such
20 municipality in the manner provided by such municipality.
21 The municipality imposing the tax shall provide for its
22 administration and enforcement.

23 (c) Retailers filing tax returns pursuant to this Act
24 shall, at the time of filing such return, pay to a
25 municipality with a population of 500,000 or more or to the
26 Department for all other municipalities, the amount of the
27 tax collected, less a discount of 1% which is allowed to
28 reimburse the retailer for the expenses incurred in keeping
29 records, billing the customer, preparing and filing returns,
30 remitting the tax and supplying data to a municipality or the
31 Department upon request. No discount may be claimed by a
32 retailer on returns not timely filed and for taxes not timely
33 remitted.

34 (d) Whenever possible, the tax authorized by this Act

1 shall, when collected, be stated as a distinct item separate
2 and apart from the gross charge for telecommunications.

3 Section 5-45. Resellers.

4 (a) If a person who originates or receives
5 telecommunications claims to be a reseller of such
6 telecommunications, such person shall apply to a municipality
7 with a population of 500,000 or more or to the Department for
8 all other municipalities, for a resale number. Such
9 applicant shall state facts which will show a municipality
10 with a population of 500,000 or more or the Department for
11 all other municipalities, why such applicant is not liable
12 for tax authorized by this Act on any of such purchases and
13 shall furnish such additional information as a municipality
14 with a population of 500,000 or more or the Department for
15 all other municipalities, may reasonably require.

16 (b) Upon approval of the application, a municipality
17 with a population of 500,000 or more or the Department for
18 all other municipalities, shall assign a resale number to the
19 applicant and shall certify such number to the applicant. A
20 municipality with a population of 500,000 or more or the
21 Department for all other municipalities, may cancel any
22 number which is obtained through misrepresentation, or which
23 is used to send or receive such telecommunication tax-free
24 when such actions in fact are not for resale, or which no
25 longer applies because of the person's having discontinued
26 the making of resales.

27 (c) Except as provided hereinabove in this Section, the
28 act or privilege of originating or receiving
29 telecommunications in this State shall not be made tax-free
30 on the ground of being a sale for resale unless the person
31 has an active resale number from a municipality with a
32 population of 500,000 or more or the Department for all other
33 municipalities, and furnishes that number to the retailer in

1 connection with certifying to the retailer that any sale to
2 such person is non-taxable because of being a sale for
3 resale.

4 Section 5-50. Returns to the Department.

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

10 (1) Its name;

11 (2) The address of its principal place of business
12 or the address of the principal place of business (if
13 that is a different address) from which it engages in the
14 business of transmitting telecommunications;

15 (3) Total amount of gross charges billed by it
16 during the preceding calendar month for providing
17 telecommunications during the calendar month;

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

20 (5) Deductions allowed by law;

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

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

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

27 (9) Such other reasonable information as the
28 Department may require.

29 (b) Any retailer required to make payments under this
30 Section may make the payments by electronic funds transfer.
31 The Department shall adopt rules necessary to effectuate a
32 program of electronic funds transfer. Any retailer who has
33 average monthly tax billings due to the Department under this

1 Act and the Telecommunications Excise Tax Act that exceed
2 \$1,000 shall make all payments by electronic funds transfer
3 as required by rules of the Department.

4 (c) If the retailer's average monthly tax billings due
5 to the Department under this Act and the Telecommunications
6 Excise Tax Act do not exceed \$1,000, the Department may
7 authorize such retailer's returns to be filed on a
8 quarter-annual basis, with the return for January, February,
9 and March of a given year being due by April 30th of that
10 year; with the return for April, May, and June of a given
11 year being due by July 31st of that year; with the return for
12 July, August, and September of a given year being due by
13 October 31st of that year; and with the return for October,
14 November, and December of a given year being due by January
15 31st of the following year.

16 (d) If the retailer is otherwise required to file a
17 monthly or quarterly return and if the retailer's average
18 monthly tax billings due to the Department under this Act and
19 the Telecommunications Excise Tax Act do not exceed \$400, the
20 Department may authorize such retailer's return to be filed
21 on an annual basis, with the return for a given year being
22 due by January 31st of the following year.

23 (e) Each retailer whose average monthly remittance to
24 the Department under this Act and the Telecommunications
25 Excise Tax Act was \$25,000 or more during the preceding
26 calendar year, excluding the month of highest remittance and
27 the month of lowest remittance in such calendar year, and who
28 is not operated by a unit of local government, shall make
29 estimated payments to the Department on or before the 7th,
30 15th, 22nd, and last day of the month during which the tax
31 remittance is owed to the Department in an amount not less
32 than the lower of either 22.5% of the retailer's actual tax
33 collections for the month or 25% of the retailer's actual tax
34 collections for the same calendar month of the preceding

1 year. The amount of such quarter-monthly payments shall be
2 credited against the final remittance of the retailer's
3 return for that month. Any outstanding credit, approved by
4 the Department, arising from the retailer's overpayment of
5 its final remittance for any month may be applied to reduce
6 the amount of any subsequent quarter-monthly payment or
7 credited against the final remittance of the retailer's
8 return for any subsequent month. If any quarter-monthly
9 payment is not paid at the time or in the amount required by
10 this Section, the retailer shall be liable for penalty and
11 interest on the difference between the minimum amount due as
12 a payment and the amount of such payment actually and timely
13 paid, except insofar as the retailer has previously made
14 payments for that month to the Department or received credits
15 in excess of the minimum payments previously due.

16 (f) Notwithstanding any other provision of this Section
17 containing the time within which a retailer may file his or
18 her return, in the case of any retailer who ceases to engage
19 in a kind of business that makes him or her responsible for
20 filing returns under this Section, the retailer shall file a
21 final return under this Section with the Department not more
22 than one month after discontinuing such business.

23 (g) In making such return, the retailer shall determine
24 the value of any consideration other than money received by
25 it and such retailer shall include the value in its return.
26 Such determination shall be subject to review and revision by
27 the Department in the manner hereinafter provided for the
28 correction of returns.

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

34 (i) The retailer filing the return herein provided for

1 shall, at the time of filing the return, pay to the
2 Department the amounts due pursuant to this Act. The
3 Department shall immediately pay over to the State Treasurer,
4 ex officio, as trustee, 99.5% of all taxes, penalties, and
5 interest collected hereunder for deposit into the Municipal
6 Telecommunications Fund, which is hereby created. The
7 remaining 0.5% received by the Department pursuant to this
8 Act shall be deposited into the Tax Compliance and
9 Administration Fund and shall be used by the Department,
10 subject to appropriation, to cover the costs of the
11 Department. On or before the 25th day of each calendar month,
12 the Department shall prepare and certify to the Comptroller
13 the disbursement of stated sums of money to be paid to named
14 municipalities from the Municipal Telecommunications Fund for
15 amounts collected during the second preceding calendar month.
16 The named municipalities shall be those municipalities
17 identified by a retailer in such retailer's return as having
18 imposed the tax authorized by the Act. The amount of money
19 to be paid to each municipality shall be the amount (not
20 including credit memoranda) collected hereunder during the
21 second preceding calendar month by the Department, plus an
22 amount the Department determines is necessary to offset any
23 amounts that were erroneously paid to a different taxing
24 body, and not including an amount equal to the amount of
25 refunds made during the second preceding calendar month by
26 the Department on behalf of such municipality, and not
27 including any amount that the Department determines is
28 necessary to offset any amount that were payable to a
29 different taxing body but were erroneously paid to the
30 municipality. Within 10 days after receipt by the
31 Comptroller of the disbursement certification from the
32 Department, the Comptroller shall cause the orders to be
33 drawn for the respective amounts in accordance with the
34 directions contained in the certification. When certifying

1 to the Comptroller the amount of a monthly disbursement to a
2 municipality under this Section, the Department shall
3 increase or decrease the amount by an amount necessary to
4 offset any misallocation of previous disbursements. The
5 offset amount shall be the amount erroneously disbursed
6 within the previous 6 months from the time a misallocation is
7 discovered.

8 (j) For municipalities with populations of less than
9 500,000, whenever the Department determines that a refund
10 shall be made under this Section to a claimant instead of
11 issuing a credit memorandum, the Department shall notify the
12 State Comptroller, who shall cause the order to be drawn for
13 the amount specified and to the person named in the
14 notification from the Department. The refund shall be paid
15 by the State Treasurer out of the Municipal
16 Telecommunications Fund.

17 Section 5-55. Pledged revenues. If a municipality has,
18 by contract, pledged or dedicated any or all of the revenues
19 collected under any of its taxes imposed pursuant to
20 subparagraph 1 of Section 8-11-2 of the Illinois Municipal
21 Code, Section 8-11-17 of the Illinois Municipal Code, or
22 Section 20 of the Telecommunications Infrastructure
23 Maintenance Fee Act as shown on the list described in Section
24 5-25 of this Act, then the equivalent portion of revenues
25 collected from the tax authorized by this Act shall be deemed
26 pledged or dedicated in a manner substantially similar to the
27 pledge of the then existing taxes so as to prevent disruption
28 of such contract.

29 Section 5-60. Waiver of franchise fees.

30 (a) Any municipality shall be deemed to have waived its
31 right to receive all fees, charges and other compensation
32 that might accrue to the municipality after the effective

1 date of this Act, under any franchise agreement, license, or
2 similar agreement, executed on or before January 1, 1998 with
3 telecommunications retailers if:

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

6 (2) the municipality affirmatively waives such
7 fees; or

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

11 (b) This waiver shall be effective only during the time
12 that either the infrastructure maintenance fee or the
13 simplified tax authorized under this Act is subject to being
14 lawfully imposed on the telecommunications retailer,
15 collected by the municipality or the Department, and paid
16 over to the municipality.

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

21 Section 5-65. Incorporation by reference. On and after
22 January 1, 2003, for municipalities with populations of less
23 than 500,000, all of the provisions of Sections 7, 10, 11,
24 12, 13, 14, 15, 16, 17, 18, and 19 of the Telecommunications
25 Excise Tax Act, Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g,
26 5i, 5j, 6, 6a, 6b, and 6c of the Retailers' Occupation Tax
27 Act, and all the provisions of the Uniform Penalty and
28 Interest Act, which are not inconsistent with this Act, shall
29 apply, as far as practicable, to the subject matter of this
30 Act to the same extent as if such provisions were included
31 herein. References in such incorporated Sections of the
32 Retailers' Occupation Tax Act to retailers, to sellers, or to
33 persons engaged in the business of selling tangible personal

1 property mean retailers, as defined in this Act, or persons
 2 engaged in the act or privilege of originating or receiving
 3 telecommunications. References in such incorporated Sections
 4 of the Retailers' Occupation Tax Act to purchasers of
 5 tangible personal property mean purchasers of
 6 telecommunications as defined in this Act. References in
 7 such incorporated Sections of the Retailers' Occupation Tax
 8 Act to sales of tangible personal property mean the act or
 9 privilege of originating or receiving telecommunications as
 10 defined in this Act.

11 Section 5-90. Home rule. The authorization to impose
 12 municipal telecommunications taxes and fees is an exclusive
 13 power and function of the State. A home rule municipality
 14 may not impose municipal telecommunications taxes and fees
 15 other than as authorized under this Act. This Act is a
 16 denial and limitation of municipal home rule powers and
 17 functions under subsection (g) of Section 6 of Article VII of
 18 the Illinois Constitution.

19 ARTICLE 90

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

22 (30 ILCS 115/12) (from Ch. 85, par. 616)

23 Sec. 12. Personal Property Tax Replacement Fund. There
 24 is hereby created the Personal Property Tax Replacement Fund,
 25 a special fund in the State Treasury into which shall be paid
 26 all revenue realized:

- 27 (a) all amounts realized from the additional personal
- 28 property tax replacement income tax imposed by subsections
- 29 (c) and (d) of Section 201 of the Illinois Income Tax Act,
- 30 except for those amounts deposited into the Income Tax Refund

1 Fund pursuant to subsection (c) of Section 901 of the
2 Illinois Income Tax Act; and

3 (b) all amounts realized from the additional personal
4 property replacement invested capital taxes imposed by
5 Section 2a.1 of the Messages Tax Act, Section 2a.1 of the Gas
6 Revenue Tax Act, Section 2a.1 of the Public Utilities
7 Revenue Act, and Section 3 of the Water Company Invested
8 Capital Tax Act, and amounts payable to the Department of
9 Revenue under the Telecommunications Municipal Infrastructure
10 Maintenance Fee Act.

11 As soon as may be after the end of each month, the
12 Department of Revenue shall certify to the Treasurer and the
13 Comptroller the amount of all refunds paid out of the General
14 Revenue Fund through the preceding month on account of
15 overpayment of liability on taxes paid into the Personal
16 Property Tax Replacement Fund. Upon receipt of such
17 certification, the Treasurer and the Comptroller shall
18 transfer the amount so certified from the Personal Property
19 Tax Replacement Fund into the General Revenue Fund.

20 The payments of revenue into the Personal Property Tax
21 Replacement Fund shall be used exclusively for distribution
22 to taxing districts as provided in this Section, payment of
23 the expenses of the Department of Revenue incurred in
24 administering the collection and distribution of monies paid
25 into the Personal Property Tax Replacement Fund and transfers
26 due to refunds to taxpayers for overpayment of liability for
27 taxes paid into the Personal Property Tax Replacement Fund.

28 As soon as may be after the effective date of this
29 amendatory Act of 1980, the Department of Revenue shall
30 certify to the Treasurer the amount of net replacement
31 revenue paid into the General Revenue Fund prior to that
32 effective date from the additional tax imposed by Section
33 2a.1 of the Messages Tax Act; Section 2a.1 of the Gas Revenue
34 Tax Act; Section 2a.1 of the Public Utilities Revenue Act;

1 Section 3 of the Water Company Invested Capital Tax Act;
2 amounts collected by the Department of Revenue under the
3 Telecommunications Municipal Infrastructure Maintenance Fee
4 Act; and the additional personal property tax replacement
5 income tax imposed by the Illinois Income Tax Act, as amended
6 by Public Act 81-1st Special Session-1. Net replacement
7 revenue shall be defined as the total amount paid into and
8 remaining in the General Revenue Fund as a result of those
9 Acts minus the amount outstanding and obligated from the
10 General Revenue Fund in state vouchers or warrants prior to
11 the effective date of this amendatory Act of 1980 as refunds
12 to taxpayers for overpayment of liability under those Acts.

13 All interest earned by monies accumulated in the Personal
14 Property Tax Replacement Fund shall be deposited in such
15 Fund. All amounts allocated pursuant to this Section are
16 appropriated on a continuing basis.

17 Prior to December 31, 1980, as soon as may be after the
18 end of each quarter beginning with the quarter ending
19 December 31, 1979, and on and after December 31, 1980, as
20 soon as may be after January 1, March 1, April 1, May 1, July
21 1, August 1, October 1 and December 1 of each year, the
22 Department of Revenue shall allocate to each taxing district
23 as defined in Section 1-150 of the Property Tax Code, in
24 accordance with the provisions of paragraph (2) of this
25 Section the portion of the funds held in the Personal
26 Property Tax Replacement Fund which is required to be
27 distributed, as provided in paragraph (1), for each quarter.
28 Provided, however, under no circumstances shall any taxing
29 district during each of the first two years of distribution
30 of the taxes imposed by this amendatory Act of 1979 be
31 entitled to an annual allocation which is less than the funds
32 such taxing district collected from the 1978 personal
33 property tax. Provided further that under no circumstances
34 shall any taxing district during the third year of

1 distribution of the taxes imposed by this amendatory Act of
2 1979 receive less than 60% of the funds such taxing district
3 collected from the 1978 personal property tax. In the event
4 that the total of the allocations made as above provided for
5 all taxing districts, during either of such 3 years, exceeds
6 the amount available for distribution the allocation of each
7 taxing district shall be proportionately reduced. Except as
8 provided in Section 13 of this Act, the Department shall then
9 certify, pursuant to appropriation, such allocations to the
10 State Comptroller who shall pay over to the several taxing
11 districts the respective amounts allocated to them.

12 Any township which receives an allocation based in whole
13 or in part upon personal property taxes which it levied
14 pursuant to Section 6-507 or 6-512 of the Illinois Highway
15 Code and which was previously required to be paid over to a
16 municipality shall immediately pay over to that municipality
17 a proportionate share of the personal property replacement
18 funds which such township receives.

19 Any municipality or township, other than a municipality
20 with a population in excess of 500,000, which receives an
21 allocation based in whole or in part on personal property
22 taxes which it levied pursuant to Sections 3-1, 3-4 and 3-6
23 of the Illinois Local Library Act and which was previously
24 required to be paid over to a public library shall
25 immediately pay over to that library a proportionate share of
26 the personal property tax replacement funds which such
27 municipality or township receives; provided that if such a
28 public library has converted to a library organized under The
29 Illinois Public Library District Act, regardless of whether
30 such conversion has occurred on, after or before January 1,
31 1988, such proportionate share shall be immediately paid over
32 to the library district which maintains and operates the
33 library. However, any library that has converted prior to
34 January 1, 1988, and which hitherto has not received the

1 personal property tax replacement funds, shall receive such
2 funds commencing on January 1, 1988.

3 Any township which receives an allocation based in whole
4 or in part on personal property taxes which it levied
5 pursuant to Section 1c of the Public Graveyards Act and which
6 taxes were previously required to be paid over to or used for
7 such public cemetery or cemeteries shall immediately pay over
8 to or use for such public cemetery or cemeteries a
9 proportionate share of the personal property tax replacement
10 funds which the township receives.

11 Any taxing district which receives an allocation based in
12 whole or in part upon personal property taxes which it levied
13 for another governmental body or school district in Cook
14 County in 1976 or for another governmental body or school
15 district in the remainder of the State in 1977 shall
16 immediately pay over to that governmental body or school
17 district the amount of personal property replacement funds
18 which such governmental body or school district would receive
19 directly under the provisions of paragraph (2) of this
20 Section, had it levied its own taxes.

21 (1) The portion of the Personal Property Tax Replacement
22 Fund required to be distributed as of the time allocation is
23 required to be made shall be the amount available in such
24 Fund as of the time allocation is required to be made.

25 The amount available for distribution shall be the total
26 amount in the fund at such time minus the necessary
27 administrative expenses as limited by the appropriation and
28 the amount determined by: (a) \$2.8 million for fiscal year
29 1981; (b) for fiscal year 1982, .54% of the funds distributed
30 from the fund during the preceding fiscal year; (c) for
31 fiscal year 1983 through fiscal year 1988, .54% of the funds
32 distributed from the fund during the preceding fiscal year
33 less .02% of such fund for fiscal year 1983 and less .02% of
34 such funds for each fiscal year thereafter, or (d) for fiscal

1 year 1989 and beyond no more than 105% of the actual
2 administrative expenses of the prior fiscal year. Such
3 portion of the fund shall be determined after the transfer
4 into the General Revenue Fund due to refunds, if any, paid
5 from the General Revenue Fund during the preceding quarter.
6 If at any time, for any reason, there is insufficient amount
7 in the Personal Property Tax Replacement Fund for payment of
8 costs of administration or for transfers due to refunds at
9 the end of any particular month, the amount of such
10 insufficiency shall be carried over for the purposes of
11 transfers into the General Revenue Fund and for purposes of
12 costs of administration to the following month or months.
13 Net replacement revenue held, and defined above, shall be
14 transferred by the Treasurer and Comptroller to the Personal
15 Property Tax Replacement Fund within 10 days of such
16 certification.

17 (2) Each quarterly allocation shall first be apportioned
18 in the following manner: 51.65% for taxing districts in Cook
19 County and 48.35% for taxing districts in the remainder of
20 the State.

21 The Personal Property Replacement Ratio of each taxing
22 district outside Cook County shall be the ratio which the Tax
23 Base of that taxing district bears to the Downstate Tax Base.
24 The Tax Base of each taxing district outside of Cook County
25 is the personal property tax collections for that taxing
26 district for the 1977 tax year. The Downstate Tax Base is
27 the personal property tax collections for all taxing
28 districts in the State outside of Cook County for the 1977
29 tax year. The Department of Revenue shall have authority to
30 review for accuracy and completeness the personal property
31 tax collections for each taxing district outside Cook County
32 for the 1977 tax year.

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

1 of that taxing district bears to the Cook County Tax Base.
2 The Tax Base of each Cook County taxing district is the
3 personal property tax collections for that taxing district
4 for the 1976 tax year. The Cook County Tax Base is the
5 personal property tax collections for all taxing districts in
6 Cook County for the 1976 tax year. The Department of Revenue
7 shall have authority to review for accuracy and completeness
8 the personal property tax collections for each taxing
9 district within Cook County for the 1976 tax year.

10 For all purposes of this Section 12, amounts paid to a
11 taxing district for such tax years as may be applicable by a
12 foreign corporation under the provisions of Section 7-202 of
13 the Public Utilities Act, as amended, shall be deemed to be
14 personal property taxes collected by such taxing district for
15 such tax years as may be applicable. The Director shall
16 determine from the Illinois Commerce Commission, for any tax
17 year as may be applicable, the amounts so paid by any such
18 foreign corporation to any and all taxing districts. The
19 Illinois Commerce Commission shall furnish such information
20 to the Director. For all purposes of this Section 12, the
21 Director shall deem such amounts to be collected personal
22 property taxes of each such taxing district for the
23 applicable tax year or years.

24 Taxing districts located both in Cook County and in one
25 or more other counties shall receive both a Cook County
26 allocation and a Downstate allocation determined in the same
27 way as all other taxing districts.

28 If any taxing district in existence on July 1, 1979
29 ceases to exist, or discontinues its operations, its Tax Base
30 shall thereafter be deemed to be zero. If the powers, duties
31 and obligations of the discontinued taxing district are
32 assumed by another taxing district, the Tax Base of the
33 discontinued taxing district shall be added to the Tax Base
34 of the taxing district assuming such powers, duties and

1 obligations.

2 If two or more taxing districts in existence on July 1,
3 1979, or a successor or successors thereto shall consolidate
4 into one taxing district, the Tax Base of such consolidated
5 taxing district shall be the sum of the Tax Bases of each of
6 the taxing districts which have consolidated.

7 If a single taxing district in existence on July 1, 1979,
8 or a successor or successors thereto shall be divided into
9 two or more separate taxing districts, the tax base of the
10 taxing district so divided shall be allocated to each of the
11 resulting taxing districts in proportion to the then current
12 equalized assessed value of each resulting taxing district.

13 If a portion of the territory of a taxing district is
14 disconnected and annexed to another taxing district of the
15 same type, the Tax Base of the taxing district from which
16 disconnection was made shall be reduced in proportion to the
17 then current equalized assessed value of the disconnected
18 territory as compared with the then current equalized
19 assessed value within the entire territory of the taxing
20 district prior to disconnection, and the amount of such
21 reduction shall be added to the Tax Base of the taxing
22 district to which annexation is made.

23 If a community college district is created after July 1,
24 1979, beginning on the effective date of this amendatory Act
25 of 1995, its Tax Base shall be 3.5% of the sum of the
26 personal property tax collected for the 1977 tax year within
27 the territorial jurisdiction of the district.

28 The amounts allocated and paid to taxing districts
29 pursuant to the provisions of this amendatory Act of 1979
30 shall be deemed to be substitute revenues for the revenues
31 derived from taxes imposed on personal property pursuant to
32 the provisions of the "Revenue Act of 1939" or "An Act for
33 the assessment and taxation of private car line companies",
34 approved July 22, 1943, as amended, or Section 414 of the

1 Illinois Insurance Code, prior to the abolition of such taxes
2 and shall be used for the same purposes as the revenues
3 derived from ad valorem taxes on real estate.

4 Monies received by any taxing districts from the Personal
5 Property Tax Replacement Fund shall be first applied toward
6 payment of the proportionate amount of debt service which was
7 previously levied and collected from extensions against
8 personal property on bonds outstanding as of December 31,
9 1978 and next applied toward payment of the proportionate
10 share of the pension or retirement obligations of the taxing
11 district which were previously levied and collected from
12 extensions against personal property. For each such
13 outstanding bond issue, the County Clerk shall determine the
14 percentage of the debt service which was collected from
15 extensions against real estate in the taxing district for
16 1978 taxes payable in 1979, as related to the total amount of
17 such levies and collections from extensions against both real
18 and personal property. For 1979 and subsequent years' taxes,
19 the County Clerk shall levy and extend taxes against the real
20 estate of each taxing district which will yield the said
21 percentage or percentages of the debt service on such
22 outstanding bonds. The balance of the amount necessary to
23 fully pay such debt service shall constitute a first and
24 prior lien upon the monies received by each such taxing
25 district through the Personal Property Tax Replacement Fund
26 and shall be first applied or set aside for such purpose. In
27 counties having fewer than 3,000,000 inhabitants, the
28 amendments to this paragraph as made by this amendatory Act
29 of 1980 shall be first applicable to 1980 taxes to be
30 collected in 1981.

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

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

1 (35 ILCS 630/2) (from Ch. 120, par. 2002)

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

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

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

21 (1) any amounts added to a purchaser's bill because
22 of a charge made pursuant to (i) the tax imposed by this
23 Article; (ii) charges added to customers' bills pursuant
24 to the provisions of Sections 9-221 or 9-222 of the
25 Public Utilities Act, as amended, or any similar charges
26 added to customers' bills by retailers who are not
27 subject to rate regulation by the Illinois Commerce
28 Commission for the purpose of recovering any of the tax
29 liabilities or other amounts specified in such provisions
30 of such Act; ~~or~~ (iii) the tax imposed by Section 4251 of
31 the Internal Revenue Code; (iv) 911 surcharges; or (v)
32 the tax imposed by the Simplified Municipal
33 Telecommunications Tax Act;

34 (2) charges for a sent collect telecommunication

1 received outside of the State;

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

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

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

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

30 (7) bad debts. Bad debt means any portion of a debt
31 that is related to a sale at retail for which gross
32 charges are not otherwise deductible or excludable that
33 has become worthless or uncollectable, as determined
34 under applicable federal income tax standards. If the

1 portion of the debt deemed to be bad is subsequently
2 paid, the retailer shall report and pay the tax on that
3 portion during the reporting period in which the payment
4 is made;

5 (8) charges paid by inserting coins in
6 coin-operated telecommunication devices;

7 (9) amounts paid by telecommunications retailers
8 under the Telecommunications Municipal Infrastructure
9 Maintenance Fee Act.

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

13 (c) "Telecommunications", in addition to the meaning
14 ordinarily and popularly ascribed to it, includes, without
15 limitation, messages or information transmitted through use
16 of local, toll and wide area telephone service; private line
17 services; channel services; telegraph services;
18 teletypewriter; computer exchange services; cellular mobile
19 telecommunications service; specialized mobile radio;
20 stationary two way radio; paging service; or any other form
21 of mobile and portable one-way or two-way communications; or
22 any other transmission of messages or information by
23 electronic or similar means, between or among points by wire,
24 cable, fiber-optics, laser, microwave, radio, satellite or
25 similar facilities. As used in this Act, "private line" means
26 a dedicated non-traffic sensitive service for a single
27 customer, that entitles the customer to exclusive or priority
28 use of a communications channel or group of channels, from
29 one or more specified locations to one or more other
30 specified locations. The definition of "telecommunications"
31 shall not include value added services in which computer
32 processing applications are used to act on the form, content,
33 code and protocol of the information for purposes other than
34 transmission. "Telecommunications" shall not include

1 purchases of telecommunications by a telecommunications
2 service provider for use as a component part of the service
3 provided by him to the ultimate retail consumer who
4 originates or terminates the taxable end-to-end
5 communications. Carrier access charges, right of access
6 charges, charges for use of inter-company facilities, and all
7 telecommunications resold in the subsequent provision of,
8 used as a component of, or integrated into end-to-end
9 telecommunications service shall be non-taxable as sales for
10 resale.

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

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

17 (f) "Department" means the Department of Revenue of the
18 State of Illinois.

19 (g) "Director" means the Director of Revenue for the
20 Department of Revenue of the State of Illinois.

21 (h) "Taxpayer" means a person who individually or
22 through his agents, employees or permittees engages in the
23 act or privilege of originating or receiving
24 telecommunications in this State and who incurs a tax
25 liability under this Article.

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

33 (j) "Purchase at retail" means the acquisition,
34 consumption or use of telecommunication through a sale at

1 retail.

2 (k) "Sale at retail" means the transmitting, supplying
3 or furnishing of telecommunications and all services and
4 equipment provided in connection therewith for a
5 consideration to persons other than the Federal and State
6 governments, and State universities created by statute and
7 other than between a parent corporation and its wholly owned
8 subsidiaries or between wholly owned subsidiaries for their
9 use or consumption and not for resale.

10 (l) "Retailer" means and includes every person engaged
11 in the business of making sales at retail as defined in this
12 Article. The Department may, in its discretion, upon
13 application, authorize the collection of the tax hereby
14 imposed by any retailer not maintaining a place of business
15 within this State, who, to the satisfaction of the
16 Department, furnishes adequate security to insure collection
17 and payment of the tax. Such retailer shall be issued,
18 without charge, a permit to collect such tax. When so
19 authorized, it shall be the duty of such retailer to collect
20 the tax upon all of the gross charges for telecommunications
21 in this State in the same manner and subject to the same
22 requirements as a retailer maintaining a place of business
23 within this State. The permit may be revoked by the
24 Department at its discretion.

25 (m) "Retailer maintaining a place of business in this
26 State", or any like term, means and includes any retailer
27 having or maintaining within this State, directly or by a
28 subsidiary, an office, distribution facilities, transmission
29 facilities, sales office, warehouse or other place of
30 business, or any agent or other representative operating
31 within this State under the authority of the retailer or its
32 subsidiary, irrespective of whether such place of business or
33 agent or other representative is located here permanently or
34 temporarily, or whether such retailer or subsidiary is

1 licensed to do business in this State.

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

13 (o) "Prepaid telephone calling arrangements" mean the
14 right to exclusively purchase telephone or telecommunications
15 services that must be paid for in advance and enable the
16 origination of one or more intrastate, interstate, or
17 international telephone calls or other telecommunications
18 using an access number, an authorization code, or both,
19 whether manually or electronically dialed, for which payment
20 to a retailer must be made in advance, provided that, unless
21 recharged, no further service is provided once that prepaid
22 amount of service has been consumed. Prepaid telephone
23 calling arrangements include the recharge of a prepaid
24 calling arrangement. For purposes of this subsection,
25 "recharge" means the purchase of additional prepaid telephone
26 or telecommunications services whether or not the purchaser
27 acquires a different access number or authorization code.
28 "Prepaid telephone calling arrangement" does not include an
29 arrangement whereby a customer purchases a payment card and
30 pursuant to which the service provider reflects the amount of
31 such purchase as a credit on an invoice issued to that
32 customer under an existing subscription plan.

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

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

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

3 (a) "Gross charge" means the amount paid for the act or
4 privilege of originating or receiving telecommunications in
5 this State and for all services and equipment provided in
6 connection therewith by a retailer, valued in money whether
7 paid in money or otherwise, including cash, credits, services
8 and property of every kind or nature, and shall be determined
9 without any deduction on account of the cost of such
10 telecommunications, the cost of materials used, labor or
11 service costs or any other expense whatsoever. In case
12 credit is extended, the amount thereof shall be included only
13 as and when paid. "Gross charges" for private line service
14 shall include charges imposed at each channel point within
15 this State, charges for the channel mileage between each
16 channel point within this State, and charges for that portion
17 of the interstate inter-office channel provided within
18 Illinois. However, "gross charges" shall not include:

19 (1) any amounts added to a purchaser's bill because
20 of a charge made pursuant to (i) the tax imposed by this
21 Article; (ii) charges added to customers' bills pursuant
22 to the provisions of Sections 9-221 or 9-222 of the
23 Public Utilities Act, as amended, or any similar charges
24 added to customers' bills by retailers 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 or other amounts specified in such provisions
28 of such Act; ~~or~~ (iii) the tax imposed by Section 4251 of
29 the Internal Revenue Code; (iv) 911 surcharges; or (v)
30 the tax imposed by the Simplified Municipal
31 Telecommunications Tax Act;

32 (2) charges for a sent collect telecommunication
33 received outside of the State;

34 (3) charges for leased time on equipment or charges

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

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

12 (5) charges to business enterprises certified under
13 Section 9-222.1 of the Public Utilities Act, as amended,
14 to the extent of such exemption and during the period of
15 time specified by the Department of Commerce and
16 Community Affairs;

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

28 (7) bad debts. Bad debt means any portion of a debt
29 that is related to a sale at retail for which gross
30 charges are not otherwise deductible or excludable that
31 has become worthless or uncollectable, as determined
32 under applicable federal income tax standards. If the
33 portion of the debt deemed to be bad is subsequently
34 paid, the retailer shall report and pay the tax on that

1 portion during the reporting period in which the payment
2 is made;

3 (8) charges paid by inserting coins in
4 coin-operated telecommunication devices;

5 (9) amounts paid by telecommunications retailers
6 under the Telecommunications Municipal Infrastructure
7 Maintenance Fee Act.

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

11 (c) "Telecommunications", in addition to the meaning
12 ordinarily and popularly ascribed to it, includes, without
13 limitation, messages or information transmitted through use
14 of local, toll and wide area telephone service; private line
15 services; channel services; telegraph services;
16 teletypewriter; computer exchange services; cellular mobile
17 telecommunications service; specialized mobile radio;
18 stationary two way radio; paging service; or any other form
19 of mobile and portable one-way or two-way communications; or
20 any other transmission of messages or information by
21 electronic or similar means, between or among points by wire,
22 cable, fiber-optics, laser, microwave, radio, satellite or
23 similar facilities. As used in this Act, "private line" means
24 a dedicated non-traffic sensitive service for a single
25 customer, that entitles the customer to exclusive or priority
26 use of a communications channel or group of channels, from
27 one or more specified locations to one or more other
28 specified locations. The definition of "telecommunications"
29 shall not include value added services in which computer
30 processing applications are used to act on the form, content,
31 code and protocol of the information for purposes other than
32 transmission. "Telecommunications" shall not include
33 purchases of telecommunications by a telecommunications
34 service provider for use as a component part of the service

1 provided by him to the ultimate retail consumer who
2 originates or terminates the taxable end-to-end
3 communications. Carrier access charges, right of access
4 charges, charges for use of inter-company facilities, and all
5 telecommunications resold in the subsequent provision of,
6 used as a component of, or integrated into end-to-end
7 telecommunications service shall be non-taxable as sales for
8 resale.

9 (d) "Interstate telecommunications" means all
10 telecommunications that either originate or terminate outside
11 this State.

12 (e) "Intrastate telecommunications" means all
13 telecommunications that originate and terminate within this
14 State.

15 (f) "Department" means the Department of Revenue of the
16 State of Illinois.

17 (g) "Director" means the Director of Revenue for the
18 Department of Revenue of the State of Illinois.

19 (h) "Taxpayer" means a person who individually or
20 through his agents, employees or permittees engages in the
21 act or privilege of originating or receiving
22 telecommunications in this State and who incurs a tax
23 liability under this Article.

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

31 (j) "Purchase at retail" means the acquisition,
32 consumption or use of telecommunication through a sale at
33 retail.

34 (k) "Sale at retail" means the transmitting, supplying

1 or furnishing of telecommunications and all services and
2 equipment provided in connection therewith for a
3 consideration to persons other than the Federal and State
4 governments, and State universities created by statute and
5 other than between a parent corporation and its wholly owned
6 subsidiaries or between wholly owned subsidiaries for their
7 use or consumption and not for resale.

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

23 (m) "Retailer maintaining a place of business in this
24 State", or any like term, means and includes any retailer
25 having or maintaining within this State, directly or by a
26 subsidiary, an office, distribution facilities, transmission
27 facilities, sales office, warehouse or other place of
28 business, or any agent or other representative operating
29 within this State under the authority of the retailer or its
30 subsidiary, irrespective of whether such place of business or
31 agent or other representative is located here permanently or
32 temporarily, or whether such retailer or subsidiary is
33 licensed to do business in this State.

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

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

13 (o) "Prepaid telephone calling arrangements" mean the
14 right to exclusively purchase telephone or telecommunications
15 services that must be paid for in advance and enable the
16 origination of one or more intrastate, interstate, or
17 international telephone calls or other telecommunications
18 using an access number, an authorization code, or both,
19 whether manually or electronically dialed, for which payment
20 to a retailer must be made in advance, provided that, unless
21 recharged, no further service is provided once that prepaid
22 amount of service has been consumed. Prepaid telephone
23 calling arrangements include the recharge of a prepaid
24 calling arrangement. For purposes of this subsection,
25 "recharge" means the purchase of additional prepaid telephone
26 or telecommunications services whether or not the purchaser
27 acquires a different access number or authorization code.
28 "Prepaid telephone calling arrangement" does not include an
29 arrangement whereby a customer purchases a payment card and
30 pursuant to which the service provider reflects the amount of
31 such purchase as a credit on an invoice issued to that
32 customer under an existing subscription plan.

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

1 (35 ILCS 630/6) (from Ch. 120, par. 2006)

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

7 1. His name;

8 2. The address of his principal place of business,
9 or and the address of the principal place of business (if
10 that is a different address) from which he engages in the
11 business of transmitting telecommunications;

12 3. Total amount of gross charges billed by him
13 during the preceding calendar month for providing
14 telecommunications during such calendar month;

15 4. Total amount received by him during the
16 preceding calendar month on credit extended;

17 5. Deductions allowed by law;

18 6. Gross charges which were billed by him during
19 the preceding calendar month and upon the basis of which
20 the tax is imposed;

21 7. Amount of tax (computed upon Item 6);

22 8. Such other reasonable information as the
23 Department may require.

24 Any taxpayer required to make payments under this Section
25 may make the payments by electronic funds transfer. The
26 Department shall adopt rules necessary to effectuate a
27 program of electronic funds transfer. Any taxpayer who has
28 average monthly tax billings due to the Department under this
29 Act and the Simplified Municipal Telecommunications Tax Act
30 that exceed \$1,000 shall make all payments by electronic
31 funds transfer as required by rules of the Department and
32 shall file the return required by this Section by electronic
33 means as required by rules of the Department.

34 If the retailer's average monthly tax billings due to the

1 Department under this Act and the Simplified Municipal
2 Telecommunications Tax Act do not exceed \$1,000 ~~\$200~~, the
3 Department may authorize his returns to be filed on a quarter
4 annual basis, with the return for January, February and March
5 of a given year being due by April 30 ~~15~~ of such year; with
6 the return for April, May and June of a given year being due
7 by July 31st ~~15~~ of such year; with the return for July,
8 August and September of a given year being due by October
9 31st ~~15~~ of such year; and with the return of October,
10 November and December of a given year being due by January
11 31st ~~15~~ of the following year.

12 If the retailer is otherwise required to file a monthly
13 or quarterly return and if the retailer's average monthly tax
14 billings due to the Department under this Act and the
15 Simplified Municipal Telecommunications Tax Act do not exceed
16 \$400 ~~\$50~~, the Department may authorize his or her return to
17 be filed on an annual basis, with the return for a given year
18 being due by January 31st ~~15th~~ of the following year.

19 Notwithstanding any other provision of this Article
20 containing the time within which a retailer may file his
21 return, in the case of any retailer who ceases to engage in a
22 kind of business which makes him responsible for filing
23 returns under this Article, such retailer shall file a final
24 return under this Article with the Department not more than
25 one month after discontinuing such business.

26 In making such return, the retailer shall determine the
27 value of any consideration other than money received by him
28 and he shall include such value in his return. Such
29 determination shall be subject to review and revision by the
30 Department in the manner hereinafter provided for the
31 correction of returns.

32 Each retailer whose average monthly liability to the
33 Department under this Article and the Simplified Municipal
34 Telecommunications Tax Act was \$25,000 ~~\$10,000~~ or more during

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

25 ~~If the Director finds that the information required for~~
26 ~~the making of an accurate return cannot reasonably be~~
27 ~~compiled by a retailer within 15 days after the close of the~~
28 ~~calendar month for which a return is to be made, he may grant~~
29 ~~an extension of time for the filing of such return for a~~
30 ~~period of not to exceed 31 calendar days. The granting of~~
31 ~~such an extension may be conditioned upon the deposit by the~~
32 ~~retailer with the Department of an amount of money not~~
33 ~~exceeding the amount estimated by the Director to be due with~~
34 ~~the return so extended. All such deposits, including any~~

1 heretofore--made--with--the--Department,--shall--be--credited
2 against--the--retailer's--liabilities-under-this-Article.--If
3 any-such-deposit-exceeds-the-retailer's-present-and--probable
4 future--liabilities--under-this-Article,--the-Department-shall
5 issue-to-the-retailer--a--credit--memorandum,--which--may--be
6 assigned--by--the--retailer--to-a-similar-retailer-under-this
7 Article,--in-accordance-with-reasonable-rules-and--regulations
8 to-be-prescribed-by-the-Department.

9 The retailer making the return herein provided for shall,
10 at the time of making such return, pay to the Department the
11 amount of tax herein imposed, less a discount of 1% which is
12 allowed to reimburse the retailer for the expenses incurred
13 in keeping records, billing the customer, preparing and
14 filing returns, remitting the tax, and supplying data to the
15 Department upon request. No discount may be claimed by a
16 retailer on returns not timely filed and for taxes not timely
17 remitted. On and after the effective date of this Article of
18 1985, \$1,000,000 of the moneys received by the Department of
19 Revenue pursuant to this Article shall be paid each month
20 into the Common School Fund and the remainder into the
21 General Revenue Fund. On and after February 1, 1998, however,
22 of the moneys received by the Department of Revenue pursuant
23 to the additional taxes imposed by this amendatory Act of
24 1997 one-half shall be deposited into the School
25 Infrastructure Fund and one-half shall be deposited into the
26 Common School Fund. On and after the effective date of this
27 amendatory Act of the 91st General Assembly, if in any fiscal
28 year the total of the moneys deposited into the School
29 Infrastructure Fund under this Act is less than the total of
30 the moneys deposited into that Fund from the additional taxes
31 imposed by Public Act 90-548 during fiscal year 1999, then,
32 as soon as possible after the close of the fiscal year, the
33 Comptroller shall order transferred and the Treasurer shall
34 transfer from the General Revenue Fund to the School

1 Infrastructure Fund an amount equal to the difference between
2 the fiscal year total deposits and the total amount deposited
3 into the Fund in fiscal year 1999.

4 (Source: P.A. 90-16, eff. 6-16-97; 90-548, eff. 12-4-97;
5 91-541, eff. 8-13-99; 91-870, 6-22-00.)

6 (35 ILCS 630/15) (from Ch. 120, par. 2015)

7 Sec. 15. Confidential information. All information
8 received by the Department from returns filed under this
9 Article, or from any investigations conducted under this
10 Article, shall be confidential, except for official purposes,
11 and any person who divulges any such information in any
12 manner, except in accordance with a proper judicial order or
13 as otherwise provided by law, shall be guilty of a Class B
14 misdemeanor.

15 Provided, that nothing contained in this Article shall
16 prevent the Director from publishing or making available to
17 the public the names and addresses of retailers or taxpayers
18 filing returns under this Article, or from publishing or
19 making available reasonable statistics concerning the
20 operation of the tax wherein the contents of returns are
21 grouped into aggregates in such a way that the information
22 contained in any individual return shall not be disclosed.

23 And provided, that nothing contained in this Article
24 shall prevent the Director from making available to the
25 United States Government or the government of any other
26 state, or any officer or agency thereof, for exclusively
27 official purposes, information received by the Department in
28 the administration of this Article, if such other
29 governmental agency agrees to divulge requested tax
30 information to the Department.

31 The furnishing upon request of the Auditor General, or
32 his authorized agents, for official use, of returns filed and
33 information related thereto under this Article is deemed to

1 be an official purpose within the meaning of this Section.

2 The furnishing of financial information to a municipality
3 that has imposed a tax under the Simplified Municipal
4 Telecommunications Tax Act, upon request of the chief
5 executive thereof, is an official purpose within the meaning
6 of this Section, provided that the municipality agrees in
7 writing to the requirements of this Section. Information so
8 provided shall be subject to all confidentiality provisions
9 of this Section. The written agreement shall provide for
10 reciprocity, limitations on access, disclosure, and
11 procedures for requesting information.

12 The Director shall make available for public inspection
13 in the Department's principal office and for publication, at
14 cost, administrative decisions issued on or after January 1,
15 1995. These decisions are to be made available in a manner so
16 that the following taxpayer information is not disclosed:

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

19 (2) At the sole discretion of the Director, trade
20 secrets or other confidential information identified as
21 such by the taxpayer, no later than 30 days after receipt
22 of an administrative decision, by such means as the
23 Department shall provide by rule.

24 The Director shall determine the appropriate extent of
25 the deletions allowed in paragraph (2). In the event the
26 taxpayer does not submit deletions, the Director shall make
27 only the deletions specified in paragraph (1).

28 The Director shall make available for public inspection
29 and publication an administrative decision within 180 days
30 after the issuance of the administrative decision. The term
31 "administrative decision" has the same meaning as defined in
32 Section 3-101 of Article III of the Code of Civil Procedure.
33 Costs collected under this Section shall be paid into the Tax
34 Compliance and Administration Fund.

1 Nothing contained in this Act shall prevent the Director
2 from divulging information to any person pursuant to a
3 request or authorization made by the taxpayer or by an
4 authorized representative of the taxpayer.

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

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

10 (35 ILCS 635/1)

11 Sec. 1. Short title. This Act may be cited as the
12 Telecommunications ~~Municipal~~ Infrastructure Maintenance Fee
13 Act.

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

15 (35 ILCS 635/5)

16 Sec. 5. Legislative intent.

17 (a) The General Assembly imposed a tax on invested
18 capital of utilities to partially replace the personal
19 property tax that was abolished by the Illinois Constitution
20 of 1970. Since that tax was imposed, telecommunications
21 retailers have evolved from utility status into an
22 increasingly competitive industry serving the public.

23 (b) This Act is intended to abolish the invested capital
24 tax on telecommunications retailers (that is, persons engaged
25 in the business of transmitting messages and acting as a
26 retailer of telecommunications as defined in Section 2 of the
27 Telecommunications Excise Tax Act). Cellular
28 telecommunications retailers have already been excluded from
29 application of the invested capital tax by earlier
30 legislative action.

31 (c) For the period prior to the effective date of this

1 amendatory Act of the 92nd General Assembly, this Act is also
2 intended to abolish municipal franchise fees with respect to
3 telecommunications retailers, create a uniform system for the
4 collection and distribution of fees associated with the
5 privilege of use of the public right of way for
6 telecommunications activity, and provide municipalities with
7 a comprehensive method of compensation for telecommunications
8 activity including the recovery of reasonable costs of
9 regulating the use of the public rights-of-way for
10 telecommunications activity.

11 (d) For the period from the effective date of this
12 amendatory Act of the 92nd General Assembly through December
13 31, 2002, it is the intent of the General Assembly that the
14 municipal infrastructure maintenance fee and its rate are
15 subject only to the limits prescribed in Section 20, and that
16 the fee and the rate of the fee do not relate to use of the
17 public rights-of-way or the costs associated with maintaining
18 and regulating the use of the public rights-of-way. It is
19 also the intent of the General Assembly that proceeds of the
20 municipal infrastructure maintenance fee may be used for any
21 lawful corporate purpose. It is not the intent of the
22 General Assembly that the municipal infrastructure
23 maintenance fee is in any way compensation for use of the
24 public rights-of-way. It is the intent of the General
25 Assembly that the fee be paid by all telecommunications
26 retailers, regardless of whether they have equipment in the
27 public rights-of-way.

28 (e) This amendatory Act of the 92nd General Assembly is
29 intended to repeal the municipal infrastructure maintenance
30 fee and the optional infrastructure maintenance fee effective
31 January 1, 2003.

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

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

2 Sec. 10. Definitions.

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

24 (1) any amounts added to a purchaser's bill because
25 of a charge made under: (i) the fee imposed by this
26 Section, (ii) additional charges added to a purchaser's
27 bill under Section 9-221 or 9-222 of the Public Utilities
28 Act, (iii) ~~amounts collected under Section 8-11-17 of the~~
29 ~~Illinois Municipal Code,~~ (iv) the tax imposed by the
30 Telecommunications Excise Tax Act, (v) ~~(v)~~ 911
31 surcharges, (v) ~~or (vi)~~ the tax imposed by Section 4251
32 of the Internal Revenue Code, or (vi) the tax imposed by
33 the Simplified Municipal Telecommunications Tax Act;

34 (2) charges for a sent collect telecommunication

1 received outside of this State ~~or--the--municipality~~
2 ~~imposing-the-fee,-as-the-context-requires;~~

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

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

15 (5) charges to business enterprises certified under
16 Section 9-222.1 of the Public Utilities Act to the extent
17 of such exemption and during the period of time specified
18 by the Department of Commerce and Community Affairs ~~or-by~~
19 ~~the--municipality--imposing-the-fee-under-the-Act,-as-the~~
20 ~~context-requires;~~

21 (6) charges for telecommunications and all services
22 and equipment provided in connection therewith between a
23 parent corporation and its wholly owned subsidiaries or
24 between wholly owned subsidiaries, and only to the extent
25 that the charges between the parent corporation and
26 wholly owned subsidiaries or between wholly owned
27 subsidiaries represent expense allocation between the
28 corporations and not the generation of profit other than
29 a regulatory required profit for the corporation
30 rendering such services;

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

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

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

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

11 (a-5) "Department" means the Illinois Department of
 12 Revenue.

13 (b) "Telecommunications" includes, but is not limited
 14 to, messages or information transmitted through use of local,
 15 toll, and wide area telephone service, channel services,
 16 telegraph services, teletypewriter service, computer exchange
 17 services, private line services, specialized mobile radio
 18 services, or any other transmission of messages or
 19 information by electronic or similar means, between or among
 20 points by wire, cable, fiber optics, laser, microwave, radio,
 21 satellite, or similar facilities. Unless the context clearly
 22 requires otherwise, "telecommunications" shall also include
 23 wireless telecommunications as hereinafter defined.
 24 "Telecommunications" shall not include value added services
 25 in which computer processing applications are used to act on
 26 the form, content, code, and protocol of the information for
 27 purposes other than transmission. "Telecommunications" shall
 28 not include purchase of telecommunications by a
 29 telecommunications service provider for use as a component
 30 part of the service provided by him or her to the ultimate
 31 retail consumer who originates or terminates the end-to-end
 32 communications. Retailer access charges, right of access
 33 charges, charges for use of intercompany facilities, and all
 34 telecommunications resold in the subsequent provision and

1 used as a component of, or integrated into, end-to-end
2 telecommunications service shall not be included in gross
3 charges as sales for resale. "Telecommunications" shall not
4 include the provision of cable services through a cable
5 system as defined in the Cable Communications Act of 1984 (47
6 U.S.C. Sections 521 and following) as now or hereafter
7 amended or through an open video system as defined in the
8 Rules of the Federal Communications Commission (47 C.D.F.
9 76.1550 and following) as now or hereafter amended. Beginning
10 January 1, 2001, prepaid telephone calling arrangements shall
11 not be considered "telecommunications" subject to the tax
12 imposed under this Act. For purposes of this Section,
13 "prepaid telephone calling arrangements" means that term as
14 defined in Section 2-27 of the Retailers' Occupation Tax Act.

15 (c) "Wireless telecommunications" includes cellular
16 mobile telephone services, personal wireless services as
17 defined in Section 704(C) of the Telecommunications Act of
18 1996 (Public Law No. 104-104) as now or hereafter amended,
19 including all commercial mobile radio services, and paging
20 services.

21 (d) "Telecommunications retailer" or "retailer" or
22 "carrier" means and includes every person engaged in the
23 business of making sales of telecommunications at retail as
24 defined in this Section. ~~The Illinois Department of Revenue~~
25 ~~or the municipality imposing the fee, as the case may be,~~
26 may, in its discretion, upon applications, authorize the
27 collection of the fee hereby imposed by any retailer not
28 maintaining a place of business within this State, who, to
29 the satisfaction of the ~~Department or municipality,~~ furnishes
30 adequate security to insure collection and payment of the
31 fee. When so authorized, it shall be the duty of such
32 retailer to pay the fee upon all of the gross charges for
33 telecommunications in the same manner and subject to the same
34 requirements as a retailer maintaining a place of business

1 within this the State ~~or municipality imposing the fee~~.

2 (e) "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 (f) "Sale of telecommunications at retail" means the
14 transmitting, supplying, or furnishing of telecommunications
15 and all services rendered in connection therewith for a
16 consideration, other than between a parent corporation and
17 its wholly owned subsidiaries or between wholly owned
18 subsidiaries, when the gross charge made by one such
19 corporation to another such corporation is not greater than
20 the gross charge paid to the retailer for their use or
21 consumption and not for sale.

22 (g) "Service address" means the location of
23 telecommunications equipment from which telecommunications
24 services are originated or at which telecommunications
25 services are received. If this is not a defined location, as
26 in the case of wireless telecommunications, paging systems,
27 maritime systems, air-to-ground systems, and the like,
28 "service address" shall mean the location of the customer's
29 primary use of the telecommunications equipment as defined by
30 the location in Illinois where bills are sent.

31 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;
32 91-870, eff. 6-22-00.)

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

34 Sec. 10. Definitions.

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

22 (1) any amounts added to a purchaser's bill because
23 of a charge made under: (i) the fee imposed by this
24 Section, (ii) additional charges added to a purchaser's
25 bill under Section 9-221 or 9-222 of the Public Utilities
26 Act, (iii) ~~amounts--collected--under--Section--8--11--17--of--the~~
27 ~~Illinois--Municipal--Code,~~ (iv) the tax imposed by the
28 Telecommunications Excise Tax Act, (iv) (v) 911
29 surcharges, (v) ~~or--(vi)~~ the tax imposed by Section 4251
30 of the Internal Revenue Code, or (vi) the tax imposed by
31 the Simplified Municipal Telecommunications Tax Act;

32 (2) charges for a sent collect telecommunication
33 received outside of this State ~~or--the--municipality~~
34 ~~imposing--the--fee,~~ as the context requires;

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

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

13 (5) charges to business enterprises certified under
14 Section 9-222.1 of the Public Utilities Act to the extent
15 of such exemption and during the period of time specified
16 by the Department of Commerce and Community Affairs ~~or by~~
17 ~~the municipality imposing the fee under the Act, as the~~
18 ~~context requires;~~

19 (6) charges for telecommunications and all services
20 and equipment provided in connection therewith between a
21 parent corporation and its wholly owned subsidiaries or
22 between wholly owned subsidiaries, and only to the extent
23 that the charges between the parent corporation and
24 wholly owned subsidiaries or between wholly owned
25 subsidiaries represent expense allocation between the
26 corporations and not the generation of profit other than
27 a regulatory required profit for the corporation
28 rendering such services;

29 (7) bad debts ("bad debt" means any portion of a
30 debt that is related to a sale at retail for which gross
31 charges are not otherwise deductible or excludable that
32 has become worthless or uncollectible, as determined
33 under applicable federal income tax standards; if the
34 portion of the debt deemed to be bad is subsequently

1 paid, the retailer shall report and pay the tax on that
2 portion during the reporting period in which the payment
3 is made); or

4 (8) charges paid by inserting coins in
5 coin-operated telecommunication devices, ~~or~~

6 ~~(9) charges for telecommunications and all services~~
7 ~~and equipment provided to a municipality imposing the~~
8 ~~infrastructure maintenance fee.~~

9 (a-5) "Department" means the Illinois Department of
10 Revenue.

11 (b) "Telecommunications" includes, but is not limited
12 to, messages or information transmitted through use of local,
13 toll, and wide area telephone service, channel services,
14 telegraph services, teletypewriter service, computer exchange
15 services, private line services, specialized mobile radio
16 services, or any other transmission of messages or
17 information by electronic or similar means, between or among
18 points by wire, cable, fiber optics, laser, microwave, radio,
19 satellite, or similar facilities. Unless the context clearly
20 requires otherwise, "telecommunications" shall also include
21 wireless telecommunications as hereinafter defined.
22 "Telecommunications" shall not include value added services
23 in which computer processing applications are used to act on
24 the form, content, code, and protocol of the information for
25 purposes other than transmission. "Telecommunications" shall
26 not include purchase of telecommunications by a
27 telecommunications service provider for use as a component
28 part of the service provided by him or her to the ultimate
29 retail consumer who originates or terminates the end-to-end
30 communications. Retailer access charges, right of access
31 charges, charges for use of intercompany facilities, and all
32 telecommunications resold in the subsequent provision and
33 used as a component of, or integrated into, end-to-end
34 telecommunications service shall not be included in gross

1 charges as sales for resale. "Telecommunications" shall not
2 include the provision of cable services through a cable
3 system as defined in the Cable Communications Act of 1984 (47
4 U.S.C. Sections 521 and following) as now or hereafter
5 amended or through an open video system as defined in the
6 Rules of the Federal Communications Commission (47 C.D.F.
7 76.1550 and following) as now or hereafter amended. Beginning
8 January 1, 2001, prepaid telephone calling arrangements shall
9 not be considered "telecommunications" subject to the tax
10 imposed under this Act. For purposes of this Section,
11 "prepaid telephone calling arrangements" means that term as
12 defined in Section 2-27 of the Retailers' Occupation Tax Act.

13 (c) "Wireless telecommunications" includes cellular
14 mobile telephone services, personal wireless services as
15 defined in Section 704(C) of the Telecommunications Act of
16 1996 (Public Law No. 104-104) as now or hereafter amended,
17 including all commercial mobile radio services, and paging
18 services.

19 (d) "Telecommunications retailer" or "retailer" or
20 "carrier" means and includes every person engaged in the
21 business of making sales of telecommunications at retail as
22 defined in this Section. The Illinois Department of--Revenue
23 ~~or--the--municipality--imposing--the--fee,--as--the--case--may--be,~~
24 may, in its discretion, upon applications, authorize the
25 collection of the fee hereby imposed by any retailer not
26 maintaining a place of business within this State, who, to
27 the satisfaction of the Department ~~or--municipality,~~ furnishes
28 adequate security to insure collection and payment of the
29 fee. When so authorized, it shall be the duty of such
30 retailer to pay the fee upon all of the gross charges for
31 telecommunications in the same manner and subject to the same
32 requirements as a retailer maintaining a place of business
33 within this the State ~~or--municipality--imposing--the--fee.~~

34 (e) "Retailer maintaining a place of business in this

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

11 (f) "Sale of telecommunications at retail" means the
12 transmitting, supplying, or furnishing of telecommunications
13 and all services rendered in connection therewith for a
14 consideration, other than between a parent corporation and
15 its wholly owned subsidiaries or between wholly owned
16 subsidiaries, when the gross charge made by one such
17 corporation to another such corporation is not greater than
18 the gross charge paid to the retailer for their use or
19 consumption and not for sale.

20 (g) "Service address" means the location of
21 telecommunications equipment from which telecommunications
22 services are originated or at which telecommunications
23 services are received. If this is not a defined location, as
24 in the case of wireless telecommunications, paging systems,
25 maritime systems, service address means the customer's place
26 of primary use as defined in the Mobile Telecommunications
27 Sourcing Conformity Act. For air-to-ground systems, and the
28 like, "service address" shall mean the location of the
29 customer's primary use of the telecommunications equipment as
30 defined by the location in Illinois where bills are sent.

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

32 (35 ILCS 635/15)

33 Sec. 15. State telecommunications infrastructure

1 maintenance fees.

2 (a) A State infrastructure maintenance fee is hereby
3 imposed upon telecommunications retailers as a replacement
4 for the personal property tax in an amount specified in
5 subsection (b).

6 (b) The amount of the State infrastructure maintenance
7 fee imposed upon a telecommunications retailer under this
8 Section shall be equal to 0.5% of all gross charges charged
9 by the telecommunications retailer to service addresses in
10 this State for telecommunications, other than wireless
11 telecommunications, originating or received in this State.
12 However, the State infrastructure maintenance fee is not
13 imposed in any case in which the imposition of the fee would
14 violate the Constitution or statutes of the United States.

15 (c) (Blank). ~~An optional infrastructure maintenance fee~~
16 ~~is hereby created. A telecommunications retailer may elect~~
17 ~~to pay the optional infrastructure maintenance fee with~~
18 ~~respect to the gross charges charged by the~~
19 ~~telecommunications retailer to service addresses in a~~
20 ~~particular municipality for telecommunications, other than~~
21 ~~wireless telecommunications, originating or received in the~~
22 ~~municipality if (1) the telecommunications retailer is not~~
23 ~~required to pay any compensation to the municipality under an~~
24 ~~existing franchise agreement and (2) the municipality has not~~
25 ~~imposed a municipal infrastructure maintenance fee as~~
26 ~~authorized in Section 20 of this Act. A telecommunications~~
27 ~~retailer electing to pay the optional infrastructure~~
28 ~~maintenance fee shall notify the Department of such election~~
29 ~~on the application for certificate of registration. If a~~
30 ~~telecommunications retailer elects to pay this fee with~~
31 ~~respect to the gross charges charged by the~~
32 ~~telecommunications retailer to service addresses in a~~
33 ~~particular municipality, such election shall remain in full~~
34 ~~force and effect until such time as the municipality imposes~~

1 a-municipal-infrastructure-maintenance-fee.

2 (d) (Blank). The-amount-of-the--optional--infrastructure
3 maintenance-fee-which-a-telecommunications-retailer-may-elect
4 to--pay--with--respect--to-a-particular-municipality-shall-be
5 equal--to--25%--of--the--maximum--amount--of--the---municipal
6 infrastructure--maintenance--fee-which-the-municipality-could
7 impose-under-Section-20-of-this-Act.

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

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

13 (35 ILCS 635/20)

14 Sec. 20. Municipal telecommunications infrastructure
15 maintenance fee.

16 (a) A municipality may impose a municipal infrastructure
17 maintenance fee upon telecommunications retailers in an
18 amount specified in subsection (b). On and after the
19 effective date of this amendatory Act of 1997, a certified
20 copy of an ordinance or resolution imposing a fee under this
21 Section shall be filed with the Department within 30 days
22 after the effective date of this amendatory Act or the
23 effective date of the ordinance or resolution imposing such
24 fee, whichever is later. Failure to file a certified copy of
25 the ordinance or resolution imposing a fee under this Section
26 shall have no effect on the validity of the ordinance or
27 resolution. The Department shall create and maintain a list
28 of all ordinances and resolutions filed pursuant to this
29 Section and make that list, as well as copies of the
30 ordinances and resolutions, available to the public for a
31 reasonable fee.

32 (b) The amount of the municipal infrastructure
33 maintenance fee imposed upon a telecommunications retailer

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

19 (c) The municipal telecommunications infrastructure fee
20 authorized by this Section shall be collected, enforced, and
21 administered as set forth in subsection (c) of Section 25 of
22 this Act.

23 (d) A municipality with a population of more than
24 500,000 that imposes a municipal infrastructure maintenance
25 fee under this Section may, by ordinance, exempt from the fee
26 all charges for the inbound toll-free telecommunications
27 service commonly known as "800", "877", or "888" or for a
28 similar service.

29 (e) For the period from the effective date of this
30 amendatory Act of the 92nd General Assembly through December
31 31, 2002, any ordinance previously enacted for the purpose of
32 imposing a municipal infrastructure maintenance fee shall be
33 valid and effective for the purpose of imposing the municipal
34 infrastructure maintenance fee described in subsection (d) of

1 Section 5 of this Act.

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

3 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;
4 91-870, eff. 6-22-00.)

5 (35 ILCS 635/25)

6 Sec. 25. Collection, enforcement, and administration of
7 State telecommunications infrastructure maintenance fees.

8 (a) A telecommunications retailer shall charge each
9 customer an additional charge equal to ~~the sum of (1) an~~
10 ~~amount equal to~~ the State infrastructure maintenance fee
11 ~~attributable to that customer's service address and (2) an~~
12 ~~amount equal to the optional infrastructure maintenance fee,~~
13 ~~if any, attributable to that customer's service address and~~
14 ~~(3) an amount equal to the municipal infrastructure~~
15 ~~maintenance fee, if any, attributable to that customer's~~
16 ~~service address.~~ Such additional charge shall be shown
17 separately on the bill to each customer.

18 (b) The State infrastructure maintenance fee ~~and the~~
19 ~~optional infrastructure maintenance fee~~ shall be designated
20 as a replacement for the personal property tax and shall be
21 remitted by the telecommunications retailer to the Illinois
22 Department of Revenue; provided, however, that the
23 telecommunications retailer may retain an amount not to
24 exceed 2% of the State infrastructure maintenance fee ~~and the~~
25 ~~optional infrastructure maintenance fee, if any,~~ paid to the
26 Department, with a timely paid and timely filed return to
27 reimburse itself for expenses incurred in collecting,
28 accounting for, and remitting the fee. All amounts herein
29 remitted to the Department shall be transferred to the
30 Personal Property Tax Replacement Fund in the State Treasury.

31 ~~(c) The municipal infrastructure maintenance fee shall~~
32 ~~be remitted by the telecommunications retailer to the~~
33 ~~municipality imposing the municipal infrastructure~~

1 maintenance----fee;----provided,----however,----that----the
 2 telecommunications-retailer--may--retain--an--amount--not--to
 3 exceed--2%--of--the--municipal-infrastructure-maintenance-fee
 4 collected-by-it-to-reimburse-itself-for-expenses-incurred--in
 5 accounting--for--and--remitting--the--fee.---The-municipality
 6 imposing-the-municipal-infrastructure-maintenance--fee--shall
 7 collect,--enforce,--and-administer-the-fee.

8 (d)--Except--as--provided--in--subsection-(e),--During-any
 9 period-of-time-when-a-municipality-receives-any--compensation
 10 other--than--the-municipal-infrastructure-maintenance-fee-set
 11 forth-in-Section-20,--for-a-telecommunications-retailer's--use
 12 of--the--public--right-of-way,--no--municipal--infrastructure
 13 maintenance--fee-may-be-imposed-by-such-municipality-pursuant
 14 to-this-Act.

15 (e)--A--municipality--that,--pursuant--to---a---franchise
 16 agreement--in--existence--on--the-effective-date-of-this-Act,--
 17 receives-compensation-from-a-telecommunications-retailer--for
 18 the--use--of--the-public-right-of-way,--may-impose-a-municipal
 19 infrastructure-maintenance-fee-pursuant-to-this-Act--only--on
 20 the--condition-that-such-municipality-(1)-waives-its-right-to
 21 receive-all-fees,--charges-and-other--compensation--under--all
 22 existing---franchise---agreements---or---the---like---with
 23 telecommunications--retailers--during--the--time---that---the
 24 municipality--imposes--a-municipal-infrastructure-maintenance
 25 fee-and-(2)-imposes-by-ordinance-(or-other--proper--means)--a
 26 municipal---infrastructure---maintenance--fee--which--becomes
 27 effective-no-sooner-than-90-days-after-such-municipality--has
 28 provided---written---notice---by---certified---mail--to--each
 29 telecommunications-retailer-with-whom-the-municipality-has-an
 30 existing-franchise-agreement,--that--the--municipality--waives
 31 all-compensation-under-such-existing-franchise-agreement.

32 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;
 33 90-655, eff. 7-30-98.)

1 (35 ILCS 635/27)

2 Sec. 27. Returns by telecommunications retailer;
3 extensions. Except as provided hereinafter in this Section,
4 on or before the 30th day of each month each
5 telecommunications retailer maintaining a place of business
6 in this State shall make a return and payment of fees to the
7 Department for the preceding calendar month on a form
8 prescribed and furnished by the Department. The return shall
9 be signed by the telecommunications retailer under penalties
10 of perjury and shall contain the following information:

- 11 1. His or her name;
- 12 2. The address of his or her principal place of
13 business, or and the address of the principal place of
14 business (if that is a different address) from which he
15 or she engages in the business of transmitting
16 telecommunications;
- 17 3. The total amount of gross charges charged by him
18 or her during the preceding calendar month for providing
19 telecommunications during such calendar month;
- 20 4. The total amount received by him or her during
21 the preceding calendar month on credit extended;
- 22 5. Deductions allowed by law;
- 23 6. Gross charges that were charged by him or her
24 during the preceding calendar month and upon the basis of
25 which the State infrastructure maintenance fee is
26 imposed;
- 27 7. (Blank) ~~Gross--charges--that--were--charged--by--him~~
28 ~~or--her--during--the--preceding--calendar--month--and--upon--the~~
29 ~~basis--of--which--the--optional--infrastructure--maintenance~~
30 ~~fee,--if--any,--is--imposed--for--each--particular--municipality;~~
- 31 8. Amounts of fees due;
- 32 9. Such other reasonable information as the
33 Department may require.

34 If the telecommunications retailer's average monthly

1 liability to the Department does not exceed \$100, the
2 Department may authorize his or her returns to be filed on a
3 quarter annual basis, with the return for January, February,
4 and March of a given year being due by April 15 of such year;
5 with the return for April, May, and June of a given year
6 being due by July 15 of such year; with the return for July,
7 August, and September of a given year being due by October 15
8 of such year; and with the return of October, November, and
9 December of a given year being due by January 15 of the
10 following year.

11 Notwithstanding any other provision of this Act
12 concerning the time within which a telecommunications
13 retailer may file his or her return, in the case of any
14 telecommunications retailer who ceases to engage in a kind of
15 business which makes him or her responsible for filing
16 returns under this Act, such telecommunications retailer
17 shall file a final return under this Act with the Department
18 not more than one month after discontinuing such business.

19 In making such return, the telecommunications retailer
20 shall determine the value of any consideration other than
21 money received by him or her and he or she shall include such
22 value in his or her return. Such determination shall be
23 subject to review and revision by the Department in the
24 manner hereinafter provided for the correction of returns.

25 If any payment provided for in this Section exceeds the
26 telecommunications retailer's liabilities under this Act, as
27 shown on an original monthly return, the Department may
28 authorize the telecommunications retailer to credit such
29 excess payment against liability subsequently to be remitted
30 to the Department under this Act, in accordance with
31 reasonable rules and regulations prescribed by the
32 Department. If the Department subsequently determines that
33 all or any part of the credit taken was not actually due to
34 the telecommunications retailer, the telecommunications

1 retailer's 2% discount shall be reduced by 2% of the
2 difference between the credit taken and that actually due,
3 and that telecommunications retailer shall be liable for
4 penalties and interest on such difference.

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

25 Any telecommunications retailer required to make payments
26 under this Section may make the payments by electronic funds
27 transfer. The Department shall adopt rules necessary to
28 effectuate a program of electronic funds transfer.

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

30 (35 ILCS 635/27.35)

31 Sec. 27.35. Rules and regulations; notice to
32 telecommunications retailer; hearings. The Department may
33 make, promulgate, and enforce such reasonable rules and

1 regulations relating to the administration and enforcement of
2 only the State infrastructure maintenance fee and--the
3 ~~optional-infrastructure-maintenance-fee~~ authorized by this
4 Act. ~~Such--rules--and--regulations--shall--not--apply--to--the~~
5 ~~administration---and---enforcement---of---the---municipal~~
6 ~~infrastructure-maintenance-fee-authorized-by-this-Act-~~

7 Whenever notice to a telecommunications retailer is
8 required by this Act, such notice may be given by United
9 States certified or registered mail, addressed to the
10 telecommunications retailer concerned at his or her last
11 known address, and proof of such mailing shall be sufficient
12 for the purposes of this Act. In the case of a notice of
13 hearing, such notice shall be mailed not less than 7 days
14 prior to the day fixed for the hearing.

15 All hearings provided for in this Act with respect to a
16 telecommunications retailer having his or her principal place
17 of business other than in Cook County shall be held at the
18 Department's office nearest to the location of the
19 telecommunications retailer's principal place of business:
20 Provided that if the telecommunications retailer has his or
21 her principal place of business in Cook County, such hearing
22 shall be held in Cook County; and provided further that if
23 the telecommunications retailer does not have his principal
24 place of business in this State, such hearings shall be held
25 in Sangamon County.

26 Whenever any proceeding provided by this Act has been
27 begun by the Department or by a person subject thereto and
28 such person thereafter dies or becomes a person under legal
29 disability before the proceeding has been concluded, the
30 legal representative of the deceased person or a person under
31 legal disability shall notify the Department of such death or
32 legal disability. The legal representative, as such, shall
33 then be substituted by the Department in place of and for the
34 person. Within 20 days after notice to the legal

1 representative of the time fixed for that purpose, the
 2 proceeding may proceed in all respects and with like effect
 3 as though the person had not died or become a person under
 4 legal disability.

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

6 (35 ILCS 635/30)

7 Sec. 30. Validity of existing franchise fees and
 8 agreements.

9 (a) ~~Upon the effective date of this Act, the municipal~~
 10 ~~infrastructure maintenance fee authorized by this Act shall~~
 11 ~~be the only fee or compensation for recovering the reasonable~~
 12 ~~costs of regulating the use of the public rights-of-way and~~
 13 ~~for the use of public rights-of-way that may be levied by or~~
 14 ~~otherwise required by ordinance, resolution, or contract to~~
 15 ~~be paid to a municipality for the use of its public way by~~
 16 ~~telecommunications retailers. No new franchise fees or other~~
 17 ~~charges for the use of the public rights-of-way, including~~
 18 ~~charges for the recovery of reasonable costs of regulating~~
 19 ~~the use of the public rights-of-way, shall be imposed upon,~~
 20 ~~levied on, or otherwise required of telecommunications~~
 21 ~~retailers by ordinance, resolution, or contract, nor shall~~
 22 ~~any~~ or other ~~new~~ charges ~~be~~ required from telecommunications
 23 retailers by municipalities from and after the effective date
 24 of this Act. ~~No telecommunications retailer paying either~~
 25 ~~the applicable municipal infrastructure maintenance fee or~~
 26 ~~the optional infrastructure maintenance fee authorized by~~
 27 ~~this Act may be denied the use, directly or indirectly, of~~
 28 ~~the public way of the municipality either imposing the~~
 29 ~~municipal infrastructure maintenance fee or to which the~~
 30 ~~optional infrastructure maintenance fee relates, as the case~~
 31 ~~may be, as authorized under the Telephone Company Act.~~
 32 Nothing in this Act shall excuse any person or entity from
 33 obligations imposed under any law concerning generally

1 applicable taxes or standards for construction on, over,
2 under, or within, use of or repair of the public
3 rights-of-way, including standards relating to free standing
4 towers and other structures upon the public way, nor shall
5 any person or entity be excused from any liability imposed by
6 any such law for the failure to comply with such generally
7 applicable taxes or standards governing construction on,
8 over, under, or within, use of or repair of the public
9 rights-of-way.

10 (b) Agreements between telecommunications retailers and
11 municipalities entered into before the effective date of this
12 Act regarding use of the public ways shall remain valid
13 according to and for their stated terms, except as to fees or
14 charges waived under Section 5-60 of the Simplified Municipal
15 Telecommunications Tax Act. ~~If, following the effective date~~
16 ~~of this Act, such an agreement is renewed automatically or by~~
17 ~~agreement of the parties, the compensation or fee under the~~
18 ~~agreement shall be equal to the maximum amount of the~~
19 ~~municipal infrastructure maintenance fee which the~~
20 ~~municipality could impose under Section 20 of this Act.~~

21 (c) The regulation of the terms and conditions upon
22 which poles, conduits, and other facilities located in the
23 public way may be shared by or between telecommunications
24 retailers shall be committed exclusively to the jurisdiction
25 of the Illinois Commerce Commission and the Federal
26 Communications Commission, and such regulation shall not be
27 among the home rule powers and functions described in
28 subsection (h) of Section 6 of Article VII of the Illinois
29 Constitution. Moreover, no municipality may enter into any
30 contract or agreement with a telecommunications retailer with
31 respect to the terms and conditions upon which poles,
32 conduits, and other facilities located in the public way may
33 be shared by or between telecommunications retailers.

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

1 (35 ILCS 635/35)

2 Sec. 35. Home rule. The authorization of infrastructure
3 maintenance fees and ~~other fees relating to the use of the~~
4 ~~public right of way for telecommunications activity imposed~~
5 ~~upon telecommunications retailers~~ is an exclusive power and
6 function of the State. A home rule municipality may not
7 impose franchise or other fees upon or require other
8 compensation from telecommunications retailers for use of the
9 public way, ~~other than the municipal infrastructure~~
10 ~~maintenance fee authorized by this Act.~~ This Act is a denial
11 and limitation of municipal home rule powers and functions
12 under subsection (g) ~~(h)~~ of Section 6 of Article VII of the
13 Illinois Constitution.

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

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

17 (50 ILCS 750/15.3) (from Ch. 134, par. 45.3)

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

19 Sec. 15.3. (a) The corporate authorities of any
20 municipality or any county may, subject to the limitations of
21 subsections (c), (d), and (h), and in addition to any tax
22 levied pursuant to the Simplified Municipal
23 Telecommunications Tax Act ~~Section 8-11-2 of the Illinois~~
24 ~~Municipal Code~~, impose a monthly surcharge on billed
25 subscribers of network connection provided by
26 telecommunication carriers engaged in the business of
27 transmitting messages by means of electricity originating
28 within the corporate limits of the municipality or county
29 imposing the surcharge at a rate per network connection
30 determined in accordance with subsection (c). A municipality
31 may enter into an intergovernmental agreement with any county
32 in which it is partially located, when the county has adopted

1 an ordinance to impose a surcharge as provided in subsection
 2 (c), to include that portion of the municipality lying
 3 outside the county in that county's surcharge referendum. If
 4 the county's surcharge referendum is approved, the portion of
 5 the municipality identified in the intergovernmental
 6 agreement shall automatically be disconnected from the county
 7 in which it lies and connected to the county which approved
 8 the referendum for purposes of a surcharge on
 9 telecommunications carriers.

10 (b) For purposes of computing the surcharge imposed by
 11 subsection (a), the network connections to which the
 12 surcharge shall apply shall be those in-service network
 13 connections, other than those network connections assigned to
 14 the municipality or county, where the service address for
 15 each such network connection or connections is located within
 16 the corporate limits of the municipality or county levying
 17 the surcharge. The "service address" shall mean the location
 18 of the primary use of the network connection or connections.
 19 With respect to network connections provided for use with pay
 20 telephone services for which there is no billed subscriber,
 21 the telecommunications carrier providing the network
 22 connection shall be deemed to be its own billed subscriber
 23 for purposes of applying the surcharge.

24 (c) Upon the passage of an ordinance to impose a
 25 surcharge under this Section the clerk of the municipality or
 26 county shall certify the question of whether the surcharge
 27 may be imposed to the proper election authority who shall
 28 submit the public question to the electors of the
 29 municipality or county in accordance with the general
 30 election law; provided that such question shall not be
 31 submitted at a consolidated primary election. The public
 32 question shall be in substantially the following form:

33 -----

34 Shall the county (or city, village

1 or incorporated town) of.....impose YES
 2 a surcharge of up to...¢ per month per
 3 network connection, which surcharge will
 4 be added to the monthly bill you receive -----
 5 for telephone or telecommunications
 6 charges, for the purpose of installing
 7 (or improving) a 9-1-1 Emergency NO
 8 Telephone System?
 9 -----

10 If a majority of the votes cast upon the public question
 11 are in favor thereof, the surcharge shall be imposed.

12 However, if a Joint Emergency Telephone System Board is
 13 to be created pursuant to an intergovernmental agreement
 14 under Section 15.4, the ordinance to impose the surcharge
 15 shall be subject to the approval of a majority of the total
 16 number of votes cast upon the public question by the electors
 17 of all of the municipalities or counties, or combination
 18 thereof, that are parties to the intergovernmental agreement.

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

28 (d) A county may not impose a surcharge, unless
 29 requested by a municipality, in any incorporated area which
 30 has previously approved a surcharge as provided in subsection
 31 (c) or in any incorporated area where the corporate
 32 authorities of the municipality have previously entered into
 33 a binding contract or letter of intent with a
 34 telecommunications carrier to provide sophisticated 9-1-1

1 service through municipal funds.

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

6 (f) The surcharge authorized by this Section shall be
7 collected from the subscriber by the telecommunications
8 carrier providing the subscriber the network connection as a
9 separately stated item on the subscriber's bill.

10 (g) The amount of surcharge collected by the
11 telecommunications carrier shall be paid to the particular
12 municipality or county or Joint Emergency Telephone System
13 Board not later than 30 days after the surcharge is
14 collected, net of any network or other 9-1-1 or sophisticated
15 9-1-1 system charges then due the particular
16 telecommunications carrier, as shown on an itemized bill.
17 The telecommunications carrier collecting the surcharge shall
18 also be entitled to deduct 3% of the gross amount of
19 surcharge collected to reimburse the telecommunications
20 carrier for the expense of accounting and collecting the
21 surcharge.

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

25 (i) Any municipality or county or joint emergency
26 telephone system board that has imposed a surcharge pursuant
27 to this Section prior to the effective date of this
28 amendatory Act of 1990 shall hereafter impose the surcharge
29 in accordance with subsection (b) of this Section.

30 (j) The corporate authorities of any municipality or
31 county may issue, in accordance with Illinois law, bonds,
32 notes or other obligations secured in whole or in part by the
33 proceeds of the surcharge described in this Section.
34 Notwithstanding any change in law subsequent to the issuance

1 of any bonds, notes or other obligations secured by the
2 surcharge, every municipality or county issuing such bonds,
3 notes or other obligations shall be authorized to impose the
4 surcharge as though the laws relating to the imposition of
5 the surcharge in effect at the time of issuance of the bonds,
6 notes or other obligations were in full force and effect
7 until the bonds, notes or other obligations are paid in full.
8 The State of Illinois pledges and agrees that it will not
9 limit or alter the rights and powers vested in municipalities
10 and counties by this Section to impose the surcharge so as to
11 impair the terms of or affect the security for bonds, notes
12 or other obligations secured in whole or in part with the
13 proceeds of the surcharge described in this Section.

14 (k) Any surcharge collected by or imposed on a
15 telecommunications carrier pursuant to this Section shall be
16 held to be a special fund in trust for the municipality,
17 county or Joint Emergency Telephone Board imposing the
18 surcharge. Except for the 3% deduction provided in
19 subsection (g) above, the special fund shall not be subject
20 to the claims of creditors of the telecommunication carrier.
21 (Source: P.A. 86-101; 86-1344.)

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

23 Sec. 15.3. (a) The corporate authorities of any
24 municipality or any county may, subject to the limitations of
25 subsections (c), (d), and (h), and in addition to any tax
26 levied pursuant to the Simplified Municipal
27 Telecommunications Tax Act Section--8-11-2-of-the-Illinois
28 Municipal--Code, impose a monthly surcharge on billed
29 subscribers of network connection provided by
30 telecommunication carriers engaged in the business of
31 transmitting messages by means of electricity originating
32 within the corporate limits of the municipality or county
33 imposing the surcharge at a rate per network connection
34 determined in accordance with subsection (c). For mobile

1 telecommunications services, if a surcharge is imposed it
2 shall be imposed based upon the municipality or county that
3 encompasses the customer's place of primary use as defined in
4 the Mobile Telecommunications Sourcing Conformity Act. A
5 municipality may enter into an intergovernmental agreement
6 with any county in which it is partially located, when the
7 county has adopted an ordinance to impose a surcharge as
8 provided in subsection (c), to include that portion of the
9 municipality lying outside the county in that county's
10 surcharge referendum. If the county's surcharge referendum
11 is approved, the portion of the municipality identified in
12 the intergovernmental agreement shall automatically be
13 disconnected from the county in which it lies and connected
14 to the county which approved the referendum for purposes of a
15 surcharge on telecommunications carriers.

16 (b) For purposes of computing the surcharge imposed by
17 subsection (a), the network connections to which the
18 surcharge shall apply shall be those in-service network
19 connections, other than those network connections assigned to
20 the municipality or county, where the service address for
21 each such network connection or connections is located within
22 the corporate limits of the municipality or county levying
23 the surcharge. Except for mobile telecommunication services,
24 the "service address" shall mean the location of the primary
25 use of the network connection or connections. For mobile
26 telecommunication services, "service address" means the
27 customer's place of primary use as defined in the Mobile
28 Telecommunications Sourcing Conformity Act. With respect to
29 network connections provided for use with pay telephone
30 services for which there is no billed subscriber, the
31 telecommunications carrier providing the network connection
32 shall be deemed to be its own billed subscriber for purposes
33 of applying the surcharge.

34 (c) Upon the passage of an ordinance to impose a

1 surcharge under this Section the clerk of the municipality or
 2 county shall certify the question of whether the surcharge
 3 may be imposed to the proper election authority who shall
 4 submit the public question to the electors of the
 5 municipality or county in accordance with the general
 6 election law; provided that such question shall not be
 7 submitted at a consolidated primary election. The public
 8 question shall be in substantially the following form:

9 -----

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

19 -----

20 If a majority of the votes cast upon the public question
 21 are in favor thereof, the surcharge shall be imposed.

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

29 The referendum requirement of this subsection (c) shall
 30 not apply to any municipality with a population over 500,000
 31 or to any county in which a proposition as to whether a
 32 sophisticated 9-1-1 Emergency Telephone System should be
 33 installed in the county, at a cost not to exceed a specified
 34 monthly amount per network connection, has previously been

1 approved by a majority of the electors of the county voting
2 on the proposition at an election conducted before the
3 effective date of this amendatory Act of 1987.

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

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

16 (f) The surcharge authorized by this Section shall be
17 collected from the subscriber by the telecommunications
18 carrier providing the subscriber the network connection as a
19 separately stated item on the subscriber's bill.

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

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

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

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

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

31 (Source: P.A. 92-474, eff. 8-1-02.)

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

1 (50 ILCS 751/17)

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

3 Sec. 17. Wireless carrier surcharge.

4 (a) Except as provided in Section 45, each wireless
5 carrier shall impose a monthly wireless carrier surcharge per
6 CMRS connection that either has a telephone number within an
7 area code assigned to Illinois by the North American
8 Numbering Plan Administrator or has a billing address in this
9 State. No wireless carrier shall impose the surcharge
10 authorized by this Section upon any subscriber who is subject
11 to the surcharge imposed by a unit of local government
12 pursuant to Section 45. The wireless carrier that provides
13 wireless service to the subscriber shall collect the
14 surcharge set by the Wireless Enhanced 9-1-1 Board from the
15 subscriber. For mobile telecommunications services provided
16 on and after August 1, 2002, any surcharge imposed under this
17 Act shall be imposed based upon the municipality or county
18 that encompasses the customer's place of primary use as
19 defined in the Mobile Telecommunications Sourcing Conformity
20 Act. The surcharge shall be stated as a separate item on
21 the subscriber's monthly bill. The wireless carrier shall
22 begin collecting the surcharge on bills issued within 90 days
23 after the Wireless Enhanced 9-1-1 Board sets the monthly
24 wireless surcharge. State and local taxes shall not apply to
25 the wireless carrier surcharge.

26 (b) Except as provided in Section 45, a wireless carrier
27 shall, within 45 days of collection, remit, either by check
28 or by electronic funds transfer, to the State Treasurer the
29 amount of the wireless carrier surcharge collected from each
30 subscriber. Of the amounts remitted under this subsection,
31 the State Treasurer shall deposit one-third into the Wireless
32 Carrier Reimbursement Fund and two-thirds into the Wireless
33 Service Emergency Fund.

34 (c) The first such remittance by wireless carriers shall

1 include the number of customers by zip code, and the 9-digit
 2 zip code if currently being used or later implemented by the
 3 carrier, that shall be the means by which the Department of
 4 Central Management Services shall determine distributions
 5 from the Wireless Service Emergency Fund. This information
 6 shall be updated no less often than every year. Wireless
 7 carriers are not required to remit surcharge moneys that are
 8 billed to subscribers but not yet collected.

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

10 (50 ILCS 751/45)

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

12 Sec. 45. Continuation of current practices.
 13 Notwithstanding any other provision of this Act, a unit of
 14 local government or emergency telephone system board
 15 providing wireless 9-1-1 service and imposing and collecting
 16 a wireless carrier surcharge prior to July 1, 1998 may
 17 continue its practices of imposing and collecting its
 18 wireless carrier surcharge, but in no event shall that
 19 monthly surcharge exceed \$1.25 per commercial mobile radio
 20 service (CMRS) connection or in-service telephone number
 21 billed on a monthly basis. For mobile telecommunications
 22 services provided on and after August 1, 2002, any surcharge
 23 imposed shall be imposed based upon the municipality or
 24 county that encompasses the customer's place of primary use
 25 as defined in the Mobile Telecommunications Sourcing
 26 Conformity Act.

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

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

30 (65 ILCS 5/8-11-2) (from Ch. 24, par. 8-11-2)

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

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

4 1. (Blank). Persons--engaged--in--the--business--of
5 transmitting--messages--by--means--of--electricity--or--radio
6 magnetic--waves,--or--fiber--optics,--at--a--rate--not--to--exceed
7 5%--of--the--gross--receipts--from--that--business--originating
8 within---the---corporate---limits--of--the--municipality.
9 Beginning--January--1,--2001,--prepaid--telephone--calling
10 arrangements--shall--not--be--subject--to--the--tax--imposed
11 under--this--Section.---For--purposes--of--this--Section,
12 "prepaid-telephone-calling-arrangements" means that term
13 as--defined--in--Section--2--27--of--the--Retailers'-Occupation
14 Tax-Act.

15 2. Persons engaged in the business of distributing,
16 supplying, furnishing, or selling gas for use or
17 consumption within the corporate limits of a municipality
18 of 500,000 or fewer population, and not for resale, at a
19 rate not to exceed 5% of the gross receipts therefrom.

20 2a. Persons engaged in the business of
21 distributing, supplying, furnishing, or selling gas for
22 use or consumption within the corporate limits of a
23 municipality of over 500,000 population, and not for
24 resale, at a rate not to exceed 8% of the gross receipts
25 therefrom. If imposed, this tax shall be paid in monthly
26 payments.

27 3. The privilege of using or consuming electricity
28 acquired in a purchase at retail and used or consumed
29 within the corporate limits of the municipality at rates
30 not to exceed the following maximum rates, calculated on
31 a monthly basis for each purchaser:

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

34 (ii) For the next 48,000 kilowatt-hours used or

- 1 consumed in a month; 0.40 cents per kilowatt-hour;
- 2 (iii) For the next 50,000 kilowatt-hours used or
- 3 consumed in a month; 0.36 cents per kilowatt-hour;
- 4 (iv) For the next 400,000 kilowatt-hours used or
- 5 consumed in a month; 0.35 cents per kilowatt-hour;
- 6 (v) For the next 500,000 kilowatt-hours used or
- 7 consumed in a month; 0.34 cents per kilowatt-hour;
- 8 (vi) For the next 2,000,000 kilowatt-hours used or
- 9 consumed in a month; 0.32 cents per kilowatt-hour;
- 10 (vii) For the next 2,000,000 kilowatt-hours used or
- 11 consumed in a month; 0.315 cents per kilowatt-hour;
- 12 (viii) For the next 5,000,000 kilowatt-hours used
- 13 or consumed in a month; 0.31 cents per kilowatt-hour;
- 14 (ix) For the next 10,000,000 kilowatt-hours used or
- 15 consumed in a month; 0.305 cents per kilowatt-hour; and
- 16 (x) For all electricity used or consumed in excess
- 17 of 20,000,000 kilowatt-hours in a month, 0.30 cents per
- 18 kilowatt-hour.

19 If a municipality imposes a tax at rates lower than
 20 either the maximum rates specified in this Section or the
 21 alternative maximum rates promulgated by the Illinois
 22 Commerce Commission, as provided below, the tax rates
 23 shall be imposed upon the kilowatt hour categories set
 24 forth above with the same proportional relationship as
 25 that which exists among such maximum rates.
 26 Notwithstanding the foregoing, until December 31, 2008,
 27 no municipality shall establish rates that are in excess
 28 of rates reasonably calculated to produce revenues that
 29 equal the maximum total revenues such municipality could
 30 have received under the tax authorized by this
 31 subparagraph in the last full calendar year prior to the
 32 effective date of Section 65 of this amendatory Act of
 33 1997; provided that this shall not be a limitation on the
 34 amount of tax revenues actually collected by such

1 municipality.

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

30 4. Persons engaged in the business of distributing,
31 supplying, furnishing, or selling water for use or
32 consumption within the corporate limits of the
33 municipality, and not for resale, at a rate not to exceed
34 5% of the gross receipts therefrom.

1 None of the taxes authorized by this Section may be
2 imposed with respect to any transaction in interstate
3 commerce or otherwise to the extent to which the business or
4 privilege may not, under the constitution and statutes of the
5 United States, be made the subject of taxation by this State
6 or any political sub-division thereof; nor shall any persons
7 engaged in the business of distributing, supplying,
8 furnishing, selling or transmitting gas, water, or
9 electricity, ~~or engaged in the business of transmitting~~
10 ~~messages~~, or using or consuming electricity acquired in a
11 purchase at retail, be subject to taxation under the
12 provisions of this Section for those transactions that are or
13 may become subject to taxation under the provisions of the
14 "Municipal Retailers' Occupation Tax Act" authorized by
15 Section 8-11-1; nor shall any tax authorized by this Section
16 be imposed upon any person engaged in a business or on any
17 privilege unless the tax is imposed in like manner and at the
18 same rate upon all persons engaged in businesses of the same
19 class in the municipality, whether privately or municipally
20 owned or operated, or exercising the same privilege within
21 the municipality.

22 Any of the taxes enumerated in this Section may be in
23 addition to the payment of money, or value of products or
24 services furnished to the municipality by the taxpayer as
25 compensation for the use of its streets, alleys, or other
26 public places, or installation and maintenance therein,
27 thereon or thereunder of poles, wires, pipes or other
28 equipment used in the operation of the taxpayer's business.

29 (a) If the corporate authorities of any home rule
30 municipality have adopted an ordinance that imposed a tax on
31 public utility customers, between July 1, 1971, and October
32 1, 1981, on the good faith belief that they were exercising
33 authority pursuant to Section 6 of Article VII of the 1970
34 Illinois Constitution, that action of the corporate

1 authorities shall be declared legal and valid,
2 notwithstanding a later decision of a judicial tribunal
3 declaring the ordinance invalid. No municipality shall be
4 required to rebate, refund, or issue credits for any taxes
5 described in this paragraph, and those taxes shall be deemed
6 to have been levied and collected in accordance with the
7 Constitution and laws of this State.

8 (b) In any case in which (i) prior to October 19, 1979,
9 the corporate authorities of any municipality have adopted an
10 ordinance imposing a tax authorized by this Section (or by
11 the predecessor provision of the "Revised Cities and Villages
12 Act") and have explicitly or in practice interpreted gross
13 receipts to include either charges added to customers' bills
14 pursuant to the provision of paragraph (a) of Section 36 of
15 the Public Utilities Act or charges added to customers' bills
16 by taxpayers who are not subject to rate regulation by the
17 Illinois Commerce Commission for the purpose of recovering
18 any of the tax liabilities or other amounts specified in such
19 paragraph (a) of Section 36 of that Act, and (ii) on or after
20 October 19, 1979, a judicial tribunal has construed gross
21 receipts to exclude all or part of those charges, then
22 neither those municipality nor any taxpayer who paid the tax
23 shall be required to rebate, refund, or issue credits for any
24 tax imposed or charge collected from customers pursuant to
25 the municipality's interpretation prior to October 19, 1979.
26 This paragraph reflects a legislative finding that it would
27 be contrary to the public interest to require a municipality
28 or its taxpayers to refund taxes or charges attributable to
29 the municipality's more inclusive interpretation of gross
30 receipts prior to October 19, 1979, and is not intended to
31 prescribe or limit judicial construction of this Section. The
32 legislative finding set forth in this subsection does not
33 apply to taxes imposed after the effective date of this
34 amendatory Act of 1995.

1 (c) The tax authorized by subparagraph 3 shall be
2 collected from the purchaser by the person maintaining a
3 place of business in this State who delivers the electricity
4 to the purchaser. This tax shall constitute a debt of the
5 purchaser to the person who delivers the electricity to the
6 purchaser and if unpaid, is recoverable in the same manner as
7 the original charge for delivering the electricity. Any tax
8 required to be collected pursuant to an ordinance authorized
9 by subparagraph 3 and any such tax collected by a person
10 delivering electricity shall constitute a debt owed to the
11 municipality by such person delivering the electricity,
12 provided, that the person delivering electricity shall be
13 allowed credit for such tax related to deliveries of
14 electricity the charges for which are written off as
15 uncollectible, and provided further, that if such charges are
16 thereafter collected, the delivering supplier shall be
17 obligated to remit such tax. For purposes of this subsection
18 (c), any partial payment not specifically identified by the
19 purchaser shall be deemed to be for the delivery of
20 electricity. Persons delivering electricity shall collect the
21 tax from the purchaser by adding such tax to the gross charge
22 for delivering the electricity, in the manner prescribed by
23 the municipality. Persons delivering electricity shall also
24 be authorized to add to such gross charge an amount equal to
25 3% of the tax to reimburse the person delivering electricity
26 for the expenses incurred in keeping records, billing
27 customers, preparing and filing returns, remitting the tax
28 and supplying data to the municipality upon request. If the
29 person delivering electricity fails to collect the tax from
30 the purchaser, then the purchaser shall be required to pay
31 the tax directly to the municipality in the manner prescribed
32 by the municipality. Persons delivering electricity who file
33 returns pursuant to this paragraph (c) shall, at the time of
34 filing such return, pay the municipality the amount of the

1 tax collected pursuant to subparagraph 3.

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

4 "Gross receipts" means the consideration received for the
5 ~~transmission-of-messages, the-consideration-received-for~~
6 distributing, supplying, furnishing or selling gas for use or
7 consumption and not for resale, and the consideration
8 received for distributing, supplying, furnishing or selling
9 water for use or consumption and not for resale, and for all
10 services rendered in connection therewith valued in money,
11 whether received in money or otherwise, including cash,
12 credit, services and property of every kind and material and
13 for all services rendered therewith, and shall be determined
14 ~~without-any-deduction-on-account-of-the-cost-of-transmitting~~
15 ~~such-messages,~~ without any deduction on account of the cost
16 of the service, product or commodity supplied, the cost of
17 materials used, labor or service cost, or any other expenses
18 whatsoever. "Gross receipts" shall not include that portion
19 of the consideration received for distributing, supplying,
20 furnishing, or selling gas or water to, ~~or-for-the~~
21 ~~transmission-of-messages-for,~~ business enterprises described
22 in paragraph (e) of this Section to the extent and during the
23 period in which the exemption authorized by paragraph (e) is
24 in effect or for school districts or units of local
25 government described in paragraph (f) during the period in
26 which the exemption authorized in paragraph (f) is in effect.
27 ~~"Gross-receipts" shall not include amounts paid by~~
28 ~~telecommunications-retailers under the Telecommunications~~
29 ~~Municipal-Infrastructure-Maintenance-Fee-Act.~~

30 For utility bills issued on or after May 1, 1996, but
31 before May 1, 1997, and for receipts from those utility
32 bills, "gross receipts" does not include one-third of (i)
33 amounts added to customers' bills under Section 9-222 of the
34 Public Utilities Act, or (ii) amounts added to customers'

1 bills by taxpayers who are not subject to rate regulation by
2 the Illinois Commerce Commission for the purpose of
3 recovering any of the tax liabilities described in Section
4 9-222 of the Public Utilities Act. For utility bills issued
5 on or after May 1, 1997, but before May 1, 1998, and for
6 receipts from those utility bills, "gross receipts" does not
7 include two-thirds of (i) amounts added to customers' bills
8 under Section 9-222 of the Public Utilities Act, or (ii)
9 amount added to customers' bills by taxpayers who are not
10 subject to rate regulation by the Illinois Commerce
11 Commission for the purpose of recovering any of the tax
12 liabilities described in Section 9-222 of the Public
13 Utilities Act. For utility bills issued on or after May 1,
14 1998, and for receipts from those utility bills, "gross
15 receipts" does not include (i) amounts added to customers'
16 bills under Section 9-222 of the Public Utilities Act, or
17 (ii) amounts added to customers' bills by taxpayers who are
18 not subject to rate regulation by the Illinois Commerce
19 Commission for the purpose of recovering any of the tax
20 liabilities described in Section 9-222 of the Public
21 Utilities Act.

22 For purposes of this Section "gross receipts" shall not
23 include ~~(i)~~ amounts added to customers' bills under Section
24 9-221 of the Public Utilities Act, ~~or (ii) charges added to~~
25 ~~customers' bills to recover the surcharge imposed under the~~
26 ~~Emergency Telephone System Act.~~ This paragraph is not
27 intended to nor does it make any change in the meaning of
28 "gross receipts" for the purposes of this Section, but is
29 intended to remove possible ambiguities, thereby confirming
30 the existing meaning of "gross receipts" prior to the
31 effective date of this amendatory Act of 1995.

32 The ~~words "transmitting messages"~~ ~~in addition to the~~
33 ~~usual and popular meaning of person-to-person communication,~~
34 ~~shall include the furnishing, for a consideration, of~~

1 services-or-facilities-(whether-owned-or-leased),-or-both,-to
2 persons-in-connection-with-the-transmission-of-messages-where
3 these-persons-do-not,-in-turn,-receive-any--consideration--in
4 connection--therewith,-but-shall-not-include-such-furnishing
5 of-services-or-facilities-to-persons-for-the-transmission--of
6 messages--to--the-extent-that-any-such-services-or-facilities
7 for--the--transmission--of--messages--are--furnished--for---a
8 consideration,-by--these--persons--to-other-persons,-for-the
9 transmission-of-messages.

10 "Person" as used in this Section means any natural
11 individual, firm, trust, estate, partnership, association,
12 joint stock company, joint adventure, corporation, limited
13 liability company, municipal corporation, the State or any of
14 its political subdivisions, any State university created by
15 statute, or a receiver, trustee, guardian or other
16 representative appointed by order of any court.

17 "Person maintaining a place of business in this State"
18 shall mean any person having or maintaining within this
19 State, directly or by a subsidiary or other affiliate, an
20 office, generation facility, distribution facility,
21 transmission facility, sales office or other place of
22 business, or any employee, agent, or other representative
23 operating within this State under the authority of the person
24 or its subsidiary or other affiliate, irrespective of whether
25 such place of business or agent or other representative is
26 located in this State permanently or temporarily, or whether
27 such person, subsidiary or other affiliate is licensed or
28 qualified to do business in this State.

29 "Public utility" shall have the meaning ascribed to it in
30 Section 3-105 of the Public Utilities Act and shall include
31 telecommunications--carriers--as-defined-in-Section-13-202-of
32 that-Act-and alternative retail electric suppliers as defined
33 in Section 16-102 of that Act.

34 "Purchase at retail" shall mean any acquisition of

1 electricity by a purchaser for purposes of use or
2 consumption, and not for resale, but shall not include the
3 use of electricity by a public utility directly in the
4 generation, production, transmission, delivery or sale of
5 electricity.

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

9 ~~In the case of persons engaged in the business of~~
10 ~~transmitting messages through the use of mobile equipment,~~
11 ~~such as cellular phones and paging systems, the gross~~
12 ~~receipts from the business shall be deemed to originate~~
13 ~~within the corporate limits of a municipality only if the~~
14 ~~address to which the bills for the service are sent is within~~
15 ~~those corporate limits. If, however, that address is not~~
16 ~~located within a municipality that imposes a tax under this~~
17 ~~Section, then (i) if the party responsible for the bill is~~
18 ~~not an individual, the gross receipts from the business shall~~
19 ~~be deemed to originate within the corporate limits of the~~
20 ~~municipality where that party's principal place of business~~
21 ~~in Illinois is located, and (ii) if the party responsible for~~
22 ~~the bill is an individual, the gross receipts from the~~
23 ~~business shall be deemed to originate within the corporate~~
24 ~~limits of the municipality where that party's principal~~
25 ~~residence in Illinois is located.~~

26 (e) Any municipality that imposes taxes upon public
27 utilities or upon the privilege of using or consuming
28 electricity pursuant to this Section whose territory includes
29 any part of an enterprise zone or federally designated
30 Foreign Trade Zone or Sub-Zone may, by a majority vote of its
31 corporate authorities, exempt from those taxes for a period
32 not exceeding 20 years any specified percentage of gross
33 receipts of public utilities received from, or electricity
34 used or consumed by, business enterprises that:

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

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

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

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

27 Upon certification of the business enterprise by the
28 Department of Commerce and Community Affairs, the Department
29 of Commerce and Community Affairs shall notify the Department
30 of Revenue of the certification. The Department of Revenue
31 shall notify the public utilities of the exemption status of
32 the gross receipts received from, and the electricity used or
33 consumed by, the certified business enterprises. Such
34 exemption status shall be effective within 3 months after

1 certification.

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

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

13 (h) In any case in which, before July 1, 1992, a person
14 engaged in the business of transmitting messages through the
15 use of mobile equipment, such as cellular phones and paging
16 systems, has determined the municipality within which the
17 gross receipts from the business originated by reference to
18 the location of its transmitting or switching equipment, then
19 (i) neither the municipality to which tax was paid on that
20 basis nor the taxpayer that paid tax on that basis shall be
21 required to rebate, refund, or issue credits for any such tax
22 or charge collected from customers to reimburse the taxpayer
23 for the tax and (ii) no municipality to which tax would have
24 been paid with respect to those gross receipts if the
25 provisions of this amendatory Act of 1991 had been in effect
26 before July 1, 1992, shall have any claim against the
27 taxpayer for any amount of the tax.

28 (Source: P.A. 90-16, eff. 6-16-97; 90-561, eff. 8-1-98;
29 90-562, eff. 12-16-97; 90-655, eff. 7-30-98; 91-870, eff.
30 6-22-00.)

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

32 Sec. 8-11-2. The corporate authorities of any
33 municipality may tax any or all of the following occupations
34 or privileges:

1 1. (Blank). Persons--engaged--in--the--business--of
 2 transmitting--messages--by--means--of--electricity--or--radio
 3 magnetic-waves,--or--fiber-optics,--at--a--rate--not--to--exceed
 4 5%--of--the--gross--receipts--from--that--business--originating
 5 within--the--corporate--limits---of---the---municipality.
 6 Beginning--January--1,--2001,--prepaid--telephone--calling
 7 arrangements--shall--not--be--subject--to--the--tax--imposed
 8 under--this--Section.---For--purposes--of--this--Section,
 9 "prepaid--telephone--calling--arrangements"--means--that--term
 10 as--defined--in--Section--2-27--of--the--Retailers'--Occupation
 11 Tax-Act.

12 2. Persons engaged in the business of distributing,
 13 supplying, furnishing, or selling gas for use or
 14 consumption within the corporate limits of a municipality
 15 of 500,000 or fewer population, and not for resale, at a
 16 rate not to exceed 5% of the gross receipts therefrom.

17 2a. Persons engaged in the business of
 18 distributing, supplying, furnishing, or selling gas for
 19 use or consumption within the corporate limits of a
 20 municipality of over 500,000 population, and not for
 21 resale, at a rate not to exceed 8% of the gross receipts
 22 therefrom. If imposed, this tax shall be paid in monthly
 23 payments.

24 3. The privilege of using or consuming electricity
 25 acquired in a purchase at retail and used or consumed
 26 within the corporate limits of the municipality at rates
 27 not to exceed the following maximum rates, calculated on
 28 a monthly basis for each purchaser:

- 29 (i) For the first 2,000 kilowatt-hours used or
 30 consumed in a month; 0.61 cents per kilowatt-hour;
- 31 (ii) For the next 48,000 kilowatt-hours used or
 32 consumed in a month; 0.40 cents per kilowatt-hour;
- 33 (iii) For the next 50,000 kilowatt-hours used or
 34 consumed in a month; 0.36 cents per kilowatt-hour;

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

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

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

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

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

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

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

16 If a municipality imposes a tax at rates lower than
17 either the maximum rates specified in this Section or the
18 alternative maximum rates promulgated by the Illinois
19 Commerce Commission, as provided below, the tax rates
20 shall be imposed upon the kilowatt hour categories set
21 forth above with the same proportional relationship as
22 that which exists among such maximum rates.
23 Notwithstanding the foregoing, until December 31, 2008,
24 no municipality shall establish rates that are in excess
25 of rates reasonably calculated to produce revenues that
26 equal the maximum total revenues such municipality could
27 have received under the tax authorized by this
28 subparagraph in the last full calendar year prior to the
29 effective date of Section 65 of this amendatory Act of
30 1997; provided that this shall not be a limitation on the
31 amount of tax revenues actually collected by such
32 municipality.

33 Upon the request of the corporate authorities of a
34 municipality, the Illinois Commerce Commission shall,

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

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

32 None of the taxes authorized by this Section may be
33 imposed with respect to any transaction in interstate
34 commerce or otherwise to the extent to which the business or

1 privilege may not, under the constitution and statutes of the
2 United States, be made the subject of taxation by this State
3 or any political sub-division thereof; nor shall any persons
4 engaged in the business of distributing, supplying,
5 furnishing, selling or transmitting gas, water, or
6 electricity, ~~or engaged in the business of transmitting~~
7 ~~messages,~~ or using or consuming electricity acquired in a
8 purchase at retail, be subject to taxation under the
9 provisions of this Section for those transactions that are or
10 may become subject to taxation under the provisions of the
11 "Municipal Retailers' Occupation Tax Act" authorized by
12 Section 8-11-1; nor shall any tax authorized by this Section
13 be imposed upon any person engaged in a business or on any
14 privilege unless the tax is imposed in like manner and at the
15 same rate upon all persons engaged in businesses of the same
16 class in the municipality, whether privately or municipally
17 owned or operated, or exercising the same privilege within
18 the municipality.

19 Any of the taxes enumerated in this Section may be in
20 addition to the payment of money, or value of products or
21 services furnished to the municipality by the taxpayer as
22 compensation for the use of its streets, alleys, or other
23 public places, or installation and maintenance therein,
24 thereon or thereunder of poles, wires, pipes or other
25 equipment used in the operation of the taxpayer's business.

26 (a) If the corporate authorities of any home rule
27 municipality have adopted an ordinance that imposed a tax on
28 public utility customers, between July 1, 1971, and October
29 1, 1981, on the good faith belief that they were exercising
30 authority pursuant to Section 6 of Article VII of the 1970
31 Illinois Constitution, that action of the corporate
32 authorities shall be declared legal and valid,
33 notwithstanding a later decision of a judicial tribunal
34 declaring the ordinance invalid. No municipality shall be

1 required to rebate, refund, or issue credits for any taxes
2 described in this paragraph, and those taxes shall be deemed
3 to have been levied and collected in accordance with the
4 Constitution and laws of this State.

5 (b) In any case in which (i) prior to October 19, 1979,
6 the corporate authorities of any municipality have adopted an
7 ordinance imposing a tax authorized by this Section (or by
8 the predecessor provision of the "Revised Cities and Villages
9 Act") and have explicitly or in practice interpreted gross
10 receipts to include either charges added to customers' bills
11 pursuant to the provision of paragraph (a) of Section 36 of
12 the Public Utilities Act or charges added to customers' bills
13 by taxpayers who are not subject to rate regulation by the
14 Illinois Commerce Commission for the purpose of recovering
15 any of the tax liabilities or other amounts specified in such
16 paragraph (a) of Section 36 of that Act, and (ii) on or after
17 October 19, 1979, a judicial tribunal has construed gross
18 receipts to exclude all or part of those charges, then
19 neither those municipality nor any taxpayer who paid the tax
20 shall be required to rebate, refund, or issue credits for any
21 tax imposed or charge collected from customers pursuant to
22 the municipality's interpretation prior to October 19, 1979.
23 This paragraph reflects a legislative finding that it would
24 be contrary to the public interest to require a municipality
25 or its taxpayers to refund taxes or charges attributable to
26 the municipality's more inclusive interpretation of gross
27 receipts prior to October 19, 1979, and is not intended to
28 prescribe or limit judicial construction of this Section. The
29 legislative finding set forth in this subsection does not
30 apply to taxes imposed after the effective date of this
31 amendatory Act of 1995.

32 (c) The tax authorized by subparagraph 3 shall be
33 collected from the purchaser by the person maintaining a
34 place of business in this State who delivers the electricity

1 to the purchaser. This tax shall constitute a debt of the
2 purchaser to the person who delivers the electricity to the
3 purchaser and if unpaid, is recoverable in the same manner as
4 the original charge for delivering the electricity. Any tax
5 required to be collected pursuant to an ordinance authorized
6 by subparagraph 3 and any such tax collected by a person
7 delivering electricity shall constitute a debt owed to the
8 municipality by such person delivering the electricity,
9 provided, that the person delivering electricity shall be
10 allowed credit for such tax related to deliveries of
11 electricity the charges for which are written off as
12 uncollectible, and provided further, that if such charges are
13 thereafter collected, the delivering supplier shall be
14 obligated to remit such tax. For purposes of this subsection
15 (c), any partial payment not specifically identified by the
16 purchaser shall be deemed to be for the delivery of
17 electricity. Persons delivering electricity shall collect the
18 tax from the purchaser by adding such tax to the gross charge
19 for delivering the electricity, in the manner prescribed by
20 the municipality. Persons delivering electricity shall also
21 be authorized to add to such gross charge an amount equal to
22 3% of the tax to reimburse the person delivering electricity
23 for the expenses incurred in keeping records, billing
24 customers, preparing and filing returns, remitting the tax
25 and supplying data to the municipality upon request. If the
26 person delivering electricity fails to collect the tax from
27 the purchaser, then the purchaser shall be required to pay
28 the tax directly to the municipality in the manner prescribed
29 by the municipality. Persons delivering electricity who file
30 returns pursuant to this paragraph (c) shall, at the time of
31 filing such return, pay the municipality the amount of the
32 tax collected pursuant to subparagraph 3.

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

1 "Gross receipts" means the consideration received for the
2 ~~transmission--of--messages,~~ ~~the--consideration--received--for~~
3 distributing, supplying, furnishing or selling gas for use or
4 consumption and not for resale, and the consideration
5 received for distributing, supplying, furnishing or selling
6 water for use or consumption and not for resale, and for all
7 services rendered in connection therewith valued in money,
8 whether received in money or otherwise, including cash,
9 credit, services and property of every kind and material and
10 for all services rendered therewith, and shall be determined
11 ~~without--any--deduction--on--account--of--the--cost--of--transmitting~~
12 ~~such--messages,~~ without any deduction on account of the cost
13 of the service, product or commodity supplied, the cost of
14 materials used, labor or service cost, or any other expenses
15 whatsoever. "Gross receipts" shall not include that portion
16 of the consideration received for distributing, supplying,
17 furnishing, or selling gas or water to, ~~or--for--the~~
18 ~~transmission--of--messages--for,~~ business enterprises described
19 in paragraph (e) of this Section to the extent and during the
20 period in which the exemption authorized by paragraph (e) is
21 in effect or for school districts or units of local
22 government described in paragraph (f) during the period in
23 which the exemption authorized in paragraph (f) is in effect.
24 ~~"Gross--receipts"--shall--not--include--amounts--paid--by~~
25 ~~telecommunications--retailers--under--the--Telecommunications~~
26 ~~Municipal-Infrastructure-Maintenance-Fee-Act.~~

27 For utility bills issued on or after May 1, 1996, but
28 before May 1, 1997, and for receipts from those utility
29 bills, "gross receipts" does not include one-third of (i)
30 amounts added to customers' bills under Section 9-222 of the
31 Public Utilities Act, or (ii) amounts added to customers'
32 bills by taxpayers who are not subject to rate regulation by
33 the Illinois Commerce Commission for the purpose of
34 recovering any of the tax liabilities described in Section

1 9-222 of the Public Utilities Act. For utility bills issued
2 on or after May 1, 1997, but before May 1, 1998, and for
3 receipts from those utility bills, "gross receipts" does not
4 include two-thirds of (i) amounts added to customers' bills
5 under Section 9-222 of the Public Utilities Act, or (ii)
6 amount added to customers' bills by taxpayers who are not
7 subject to rate regulation by the Illinois Commerce
8 Commission for the purpose of recovering any of the tax
9 liabilities described in Section 9-222 of the Public
10 Utilities Act. For utility bills issued on or after May 1,
11 1998, and for receipts from those utility bills, "gross
12 receipts" does not include (i) amounts added to customers'
13 bills under Section 9-222 of the Public Utilities Act, or
14 (ii) amounts added to customers' bills by taxpayers who are
15 not subject to rate regulation by the Illinois Commerce
16 Commission for the purpose of recovering any of the tax
17 liabilities described in Section 9-222 of the Public
18 Utilities Act.

19 For purposes of this Section "gross receipts" shall not
20 include ~~(i)~~ amounts added to customers' bills under Section
21 9-221 of the Public Utilities Act, ~~or (ii) charges added to~~
22 ~~customers' bills to recover the surcharge imposed under the~~
23 ~~Emergency Telephone System Act.~~ This paragraph is not
24 intended to nor does it make any change in the meaning of
25 "gross receipts" for the purposes of this Section, but is
26 intended to remove possible ambiguities, thereby confirming
27 the existing meaning of "gross receipts" prior to the
28 effective date of this amendatory Act of 1995.

29 ~~The words "transmitting messages", in addition to the~~
30 ~~usual and popular meaning of person-to-person communication,~~
31 ~~shall include the furnishing, for a consideration, of~~
32 ~~services or facilities (whether owned or leased), or both, to~~
33 ~~persons in connection with the transmission of messages where~~
34 ~~these persons do not, in turn, receive any consideration in~~

1 ~~connection therewith, but shall not include--such--furnishing~~
2 ~~of--services-or-facilities-to-persons-for-the-transmission-of~~
3 ~~messages-to-the-extent-that-any-such-services--or--facilities~~
4 ~~for---the--transmission--of--messages--are--furnished--for--a~~
5 ~~consideration, by those persons to--other--persons,--for--the~~
6 ~~transmission-of-messages.~~

7 "Person" as used in this Section means any natural
8 individual, firm, trust, estate, partnership, association,
9 joint stock company, joint adventure, corporation, limited
10 liability company, municipal corporation, the State or any of
11 its political subdivisions, any State university created by
12 statute, or a receiver, trustee, guardian or other
13 representative appointed by order of any court.

14 "Person maintaining a place of business in this State"
15 shall mean any person having or maintaining within this
16 State, directly or by a subsidiary or other affiliate, an
17 office, generation facility, distribution facility,
18 transmission facility, sales office or other place of
19 business, or any employee, agent, or other representative
20 operating within this State under the authority of the person
21 or its subsidiary or other affiliate, irrespective of whether
22 such place of business or agent or other representative is
23 located in this State permanently or temporarily, or whether
24 such person, subsidiary or other affiliate is licensed or
25 qualified to do business in this State.

26 "Public utility" shall have the meaning ascribed to it in
27 Section 3-105 of the Public Utilities Act and shall include
28 ~~telecommunications-carriers-as-defined-in-Section--13-202--of~~
29 ~~that-Act-and~~ alternative retail electric suppliers as defined
30 in Section 16-102 of that Act.

31 "Purchase at retail" shall mean any acquisition of
32 electricity by a purchaser for purposes of use or
33 consumption, and not for resale, but shall not include the
34 use of electricity by a public utility directly in the

1 generation, production, transmission, delivery or sale of
2 electricity.

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

6 ~~In--the--case--of--persons--engaged--in--the--business--of~~
7 ~~transmitting--messages--through--the--use--of--mobile--equipment,~~
8 ~~such---as--cellular--phones--and--paging--systems,~~ ~~the--gross~~
9 ~~receipts--from--the--business--shall--be--deemed--to--originate~~
10 ~~within--the--corporate--limits--of--a--municipality--only--if--the~~
11 ~~customer's--place--of--primary--use--as--defined--in--the--Mobile~~
12 ~~Telecommunications--Sourcing--Conformity--Act--is--within--these~~
13 ~~corporate--limits.~~

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

23 (1) either (i) make investments that cause the
24 creation of a minimum of 200 full-time equivalent jobs in
25 Illinois, (ii) make investments of at least \$175,000,000
26 that cause the creation of a minimum of 150 full-time
27 equivalent jobs in Illinois, or (iii) make investments
28 that cause the retention of a minimum of 1,000 full-time
29 jobs in Illinois; and

30 (2) are either (i) located in an Enterprise Zone
31 established pursuant to the Illinois Enterprise Zone Act
32 or (ii) Department of Commerce and Community Affairs
33 designated High Impact Businesses located in a federally
34 designated Foreign Trade Zone or Sub-Zone; and

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

4 Upon adoption of the ordinance authorizing the exemption,
5 the municipal clerk shall transmit a copy of that ordinance
6 to the Department of Commerce and Community Affairs. The
7 Department of Commerce and Community Affairs shall determine
8 whether the business enterprises located in the municipality
9 meet the criteria prescribed in this paragraph. If the
10 Department of Commerce and Community Affairs determines that
11 the business enterprises meet the criteria, it shall grant
12 certification. The Department of Commerce and Community
13 Affairs shall act upon certification requests within 30 days
14 after receipt of the ordinance.

15 Upon certification of the business enterprise by the
16 Department of Commerce and Community Affairs, the Department
17 of Commerce and Community Affairs shall notify the Department
18 of Revenue of the certification. The Department of Revenue
19 shall notify the public utilities of the exemption status of
20 the gross receipts received from, and the electricity used or
21 consumed by, the certified business enterprises. Such
22 exemption status shall be effective within 3 months after
23 certification.

24 (f) A municipality that imposes taxes upon public
25 utilities or upon the privilege of using or consuming
26 electricity under this Section and whose territory includes
27 part of another unit of local government or a school district
28 may by ordinance exempt the other unit of local government or
29 school district from those taxes.

30 (g) The amendment of this Section by Public Act 84-127
31 shall take precedence over any other amendment of this
32 Section by any other amendatory Act passed by the 84th
33 General Assembly before the effective date of Public Act
34 84-127.

1 (h) In any case in which, before July 1, 1992, a person
2 engaged in the business of transmitting messages through the
3 use of mobile equipment, such as cellular phones and paging
4 systems, has determined the municipality within which the
5 gross receipts from the business originated by reference to
6 the location of its transmitting or switching equipment, then
7 (i) neither the municipality to which tax was paid on that
8 basis nor the taxpayer that paid tax on that basis shall be
9 required to rebate, refund, or issue credits for any such tax
10 or charge collected from customers to reimburse the taxpayer
11 for the tax and (ii) no municipality to which tax would have
12 been paid with respect to those gross receipts if the
13 provisions of this amendatory Act of 1991 had been in effect
14 before July 1, 1992, shall have any claim against the
15 taxpayer for any amount of the tax.

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

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

19 (65 ILCS 5/8-11-17) (from Ch. 24, par. 8-11-17)

20 Sec. 8-11-17. Municipal telecommunications tax.

21 (a) Beginning on the effective date of this amendatory
22 Act of 1991, the corporate authorities of any municipality in
23 this State may tax any or all of the following acts or
24 privileges:

25 (1) The act or privilege of originating in such
26 municipality or receiving in such municipality intrastate
27 telecommunications by a person at a rate not to exceed 5%
28 of the gross charge for such telecommunications purchased
29 at retail from a retailer by such person. However, such
30 tax is not imposed on such 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

1 taxation by municipalities in this State.

2 (2) The act or privilege of originating in such
3 municipality or receiving in such municipality interstate
4 telecommunications by a person at a rate not to exceed 5%
5 of the gross charge for such telecommunications purchased
6 at retail from a retailer by such person. To prevent
7 actual multi-state taxation of the act or privilege that
8 is subject to taxation under this paragraph, any
9 taxpayer, upon proof that the taxpayer has paid a tax in
10 another state on such event, shall be allowed a credit
11 against any tax enacted pursuant to an ordinance
12 authorized by this paragraph to the extent of the amount
13 of such tax properly due and paid in such other state
14 which was not previously allowed as a credit against any
15 other state or local tax in this State. However, such
16 tax is not imposed on the act or privilege to the extent
17 such act or privilege may not, under the Constitution and
18 statutes of the United States, be made the subject of
19 taxation by municipalities in this State.

20 (3) The taxes authorized by paragraphs (1) and (2)
21 of subsection (a) of this Section may only be levied if
22 such municipality does not then have in effect an
23 occupation tax imposed on persons engaged in the business
24 of transmitting messages by means of electricity as
25 authorized by Section 8-11-2 of the Illinois Municipal
26 Code.

27 (b) The tax authorized by this Section shall be
28 collected from the taxpayer by a retailer maintaining a place
29 of business in this State and making or effectuating the sale
30 at retail and shall be remitted by such retailer to the
31 municipality. Any tax required to be collected pursuant to
32 an ordinance authorized by this Section and any such tax
33 collected by such retailer shall constitute a debt owed by
34 the retailer to such municipality. Retailers shall collect

1 the tax from the taxpayer by adding the tax to the gross
2 charge for the act or privilege of originating or receiving
3 telecommunications when sold for use, in the manner
4 prescribed by the municipality. The tax authorized by this
5 Section shall constitute a debt of the purchaser to the
6 retailer who provides such taxable services until paid and,
7 if unpaid, is recoverable at law in the same manner as the
8 original charge for such taxable services. If the retailer
9 fails to collect the tax from the taxpayer, then the taxpayer
10 shall be required to pay the tax directly to the municipality
11 in the manner provided by the municipality. The municipality
12 imposing the tax shall provide for its administration and
13 enforcement.

14 Beginning January 1, 1994, retailers filing tax returns
15 pursuant to this Section shall, at the time of filing such
16 return, pay to the municipality the amount of the tax imposed
17 by this Section, less a commission of 1.75% which is allowed
18 to reimburse the retailer for the expenses incurred in
19 keeping records, billing the customer, preparing and filing
20 returns, remitting the tax and supplying data to the
21 municipality upon request. No commission may be claimed by a
22 retailer for tax not timely remitted to the municipality.

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

26 (c) For the purpose of the taxes authorized by this
27 Section:

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

31 (2) "Gross charge" means the amount paid for the
32 act or privilege of originating or receiving
33 telecommunications in such municipality and for all
34 services rendered in connection therewith, valued in

1 money whether paid in money or otherwise, including cash,
 2 credits, services and property of every kind or nature,
 3 and shall be determined without any deduction on account
 4 of the cost of such telecommunications, the cost of the
 5 materials used, labor or service costs or any other
 6 expense whatsoever. In case credit is extended, the
 7 amount thereof shall be included only as and when paid.
 8 However, "gross charge" shall not include:

9 (A) any amounts added to a purchaser's bill
 10 because of a charge made pursuant to: (i) the tax
 11 imposed by this Section, (ii) additional charges
 12 added to a purchaser's bill pursuant to Section
 13 9-222 of the Public Utilities Act, (iii) the tax
 14 imposed by the Telecommunications Excise Tax Act, or
 15 (iv) the tax imposed by Section 4251 of the Internal
 16 Revenue Code;

17 (B) charges for a sent collect
 18 telecommunication received outside of such
 19 municipality;

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

29 (D) charges for customer equipment, including
 30 such equipment that is leased or rented by the
 31 customer from any source, wherein such charges are
 32 disaggregated and separately identified from other
 33 charges;

34 (E) charges to business enterprises certified

1 under Section 9-222.1 of the Public Utilities Act to
2 the extent of such exemption and during the period
3 of time specified by the Department of Commerce and
4 Community Affairs;

5 (F) charges for telecommunications and all
6 services and equipment provided in connection
7 therewith between a parent corporation and its
8 wholly owned subsidiaries or between wholly owned
9 subsidiaries when the tax imposed under this Section
10 has already been paid to a retailer and only to the
11 extent that the charges between the parent
12 corporation and wholly owned subsidiaries or between
13 wholly owned subsidiaries represent expense
14 allocation between the corporations and not the
15 generation of profit for the corporation rendering
16 such service;

17 (G) bad debts ("bad debt" means any portion of
18 a debt that is related to a sale at retail for which
19 gross charges are not otherwise deductible or
20 excludable that has become worthless or
21 uncollectable, as determined under applicable
22 federal income tax standards; if the portion of the
23 debt deemed to be bad is subsequently paid, the
24 retailer shall report and pay the tax on that
25 portion during the reporting period in which the
26 payment is made);

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

29 (I) amounts paid by telecommunications
30 retailers under the Telecommunications Municipal
31 Infrastructure Maintenance Fee Act.

32 (3) "Interstate telecommunications" means all
33 telecommunications that either originate or terminate
34 outside this State.

1 (4) "Intrastate telecommunications" means all
2 telecommunications that originate and terminate within
3 this State.

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

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

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

30 (8) "Retailer maintaining a place of business in
31 this State", or any like term, means and includes any
32 retailer having or maintaining within this State,
33 directly or by a subsidiary, an office, distribution
34 facilities, transmission facilities, sales office,

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

8 (9) "Sale at retail" means the transmitting,
9 supplying or furnishing of telecommunications and all
10 services rendered in connection therewith for a
11 consideration, to persons other than the Federal and
12 State governments, and State universities created by
13 statute and other than between a parent corporation and
14 its wholly owned subsidiaries or between wholly owned
15 subsidiaries, when the tax has already been paid to a
16 retailer and the gross charge made by one such
17 corporation to another such corporation is not greater
18 than the gross charge paid to the retailer for their use
19 or consumption and not for resale.

20 (10) "Service address" means the location of
21 telecommunications equipment from which
22 telecommunications services are originated or at which
23 telecommunications services are received by a taxpayer.
24 For periods prior to August 1, 2002, if this is not a
25 defined location, as in the case of mobile phones, paging
26 systems, maritime systems, air-to-ground systems and the
27 like, "service address" shall mean the location of a
28 taxpayer's primary use of the telecommunication equipment
29 as defined by telephone number, authorization code, or
30 location in Illinois where bills are sent. For periods on
31 and after August 1, 2002, if this is not a defined
32 location, as in the case of mobile phones, paging
33 systems, and maritime systems, service address means the
34 customer's place of primary use as defined in the Mobile

1 Telecommunications Sourcing Conformity Act, and for
2 air-to-ground systems and the like, "service address"
3 shall mean the location of a taxpayer's primary use of
4 the telecommunications equipment as defined by telephone
5 number, authorization code, or location in Illinois where
6 bills are sent.

7 (11) "Taxpayer" means a person who individually or
8 through his agents, employees, or permittees engages in
9 the act or privilege of originating in such municipality
10 or receiving in such municipality telecommunications and
11 who incurs a tax liability under any ordinance authorized
12 by this Section.

13 (12) "Telecommunications", in addition to the usual
14 and popular meaning, includes, but is not limited to,
15 messages or information transmitted through use of local,
16 toll and wide area telephone service, channel services,
17 telegraph services, teletypewriter service, computer
18 exchange services; cellular mobile telecommunications
19 service, specialized mobile radio services, paging
20 service, or any other form of mobile and portable one-way
21 or two-way communications, or any other transmission of
22 messages or information by electronic or similar means,
23 between or among points by wire, cable, fiber optics,
24 laser, microwave, radio, satellite or similar facilities.
25 The definition of "telecommunications" shall not include
26 value added services in which computer processing
27 applications are used to act on the form, content, code
28 and protocol of the information for purposes other than
29 transmission. "Telecommunications" shall not include
30 purchase of telecommunications by a telecommunications
31 service provider for use as a component part of the
32 service provided by him to the ultimate retail consumer
33 who originates or terminates the taxable end-to-end
34 communications. Carrier access charges, right of access

1 charges, charges for use of inter-company facilities, and
2 all telecommunications resold in the subsequent provision
3 used as a component of, or integrated into, end-to-end
4 telecommunications service shall be non-taxable as sales
5 for resale. Beginning January 1, 2001, prepaid telephone
6 calling arrangements shall not be considered
7 "telecommunications" subject to the tax imposed under
8 this Act. For purposes of this Section, "prepaid
9 telephone calling arrangements" means that term as
10 defined in Section 2-27 of the Retailers' Occupation Tax
11 Act.

12 (d) If a person, who originates or receives
13 telecommunications in such municipality claims to be a
14 reseller of such telecommunications, such person shall apply
15 to the municipality for a resale number. Such applicant
16 shall state facts which will show the municipality why such
17 applicant is not liable for tax under any ordinance
18 authorized by this Section on any of such purchases and shall
19 furnish such additional information as the municipality may
20 reasonably require.

21 Upon approval of the application, the municipality shall
22 assign a resale number to the applicant and shall certify
23 such number to the applicant. The municipality may cancel
24 any number which is obtained through misrepresentation, or
25 which is used to send or receive such telecommunication
26 tax-free when such actions in fact are not for resale, or
27 which no longer applies because of the person's having
28 discontinued the making of resales.

29 Except as provided hereinabove in this Section, the act
30 or privilege of sending or receiving telecommunications in
31 this State shall not be made tax-free on the ground of being
32 a sale for resale unless the person has an active resale
33 number from the municipality and furnishes that number to the
34 retailer in connection with certifying to the retailer that

1 any sale to such person is non-taxable because of being a
2 sale for resale.

3 (e) A municipality that imposes taxes upon
4 telecommunications under this Section and whose territory
5 includes part of another unit of local government or a school
6 district may, by ordinance, exempt the other unit of local
7 government or school district from those taxes.

8 (f) A municipality that imposes taxes upon
9 telecommunications under this Section may, by ordinance, (i)
10 reduce the rate of the tax for persons 65 years of age or
11 older or (ii) exempt persons 65 years of age or older from
12 those taxes. Taxes related to such rate reductions or
13 exemptions shall be rebated from the municipality directly to
14 persons qualified for the rate reduction or exemption as
15 determined by the municipality's ordinance.

16 (g) A municipality with a population of more than
17 500,000 that imposes a tax under this Section may, by
18 ordinance, exempt from the tax all charges for the inbound
19 toll-free telecommunications service commonly known as "800",
20 "877", or "888" or for a similar service.

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

22 (Source: P.A. 90-357, eff. 1-1-98; 90-562, eff. 12-16-97;
23 91-870, eff. 6-22-00.)

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

26 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

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

28 (a) It is declared to be the public policy of this State
29 that in order to maintain and foster the effective regulation
30 of public utilities under this Act in the interests of the
31 People of the State of Illinois and the public utilities as
32 well, the public utilities subject to regulation under this

1 Act and which enjoy the privilege of operating as public
2 utilities in this State, shall bear the expense of
3 administering this Act by means of a tax on such privilege
4 measured by the annual gross revenue of such public utilities
5 in the manner provided in this Section. For purposes of this
6 Section, "expense of administering this Act" includes any
7 costs incident to studies, whether made by the Commission or
8 under contract entered into by the Commission, concerning
9 environmental pollution problems caused or contributed to by
10 public utilities and the means for eliminating or abating
11 those problems. Such proceeds shall be deposited in the
12 Public Utility Fund in the State treasury.

13 (b) All of the ordinary and contingent expenses of the
14 Commission incident to the administration of this Act shall
15 be paid out of the Public Utility Fund except the
16 compensation of the members of the Commission which shall be
17 paid from the General Revenue Fund. Notwithstanding other
18 provisions of this Act to the contrary, the ordinary and
19 contingent expenses of the Commission incident to the
20 administration of the Illinois Commercial Transportation Law
21 may be paid from appropriations from the Public Utility Fund
22 through the end of fiscal year 1986.

23 (c) A tax is imposed upon each public utility subject to
24 the provisions of this Act equal to .08% of its gross revenue
25 for each calendar year commencing with the calendar year
26 beginning January 1, 1982, except that the Commission may, by
27 rule, establish a different rate no greater than 0.1%. For
28 purposes of this Section, "gross revenue" shall not include
29 revenue from the production, transmission, distribution,
30 sale, delivery, or furnishing of electricity. "Gross revenue"
31 shall not include amounts paid by telecommunications
32 retailers under the Telecommunications Municipal
33 Infrastructure Maintenance Fee Act.

34 (d) Annual gross revenue returns shall be filed in

1 accordance with paragraph (1) or (2) of this subsection (d).

2 (1) Except as provided in paragraph (2) of this
3 subsection (d), on or before January 10 of each year each
4 public utility subject to the provisions of this Act
5 shall file with the Commission an estimated annual gross
6 revenue return containing an estimate of the amount of
7 its gross revenue for the calendar year commencing
8 January 1 of said year and a statement of the amount of
9 tax due for said calendar year on the basis of that
10 estimate. Public utilities may also file revised returns
11 containing updated estimates and updated amounts of tax
12 due during the calendar year. These revised returns, if
13 filed, shall form the basis for quarterly payments due
14 during the remainder of the calendar year. In addition,
15 on or before March 31 of each year, each public utility
16 shall file an amended return showing the actual amount of
17 gross revenues shown by the company's books and records
18 as of December 31 of the previous year. Forms and
19 instructions for such estimated, revised, and amended
20 returns shall be devised and supplied by the Commission.

21 (2) Beginning with returns due after January 1,
22 2002, the requirements of paragraph (1) of this
23 subsection (d) shall not apply to any public utility in
24 any calendar year for which the total tax the public
25 utility owes under this Section is less than \$10,000.
26 For such public utilities with respect to such years, the
27 public utility shall file with the Commission, on or
28 before March 31 of the following year, an annual gross
29 revenue return for the year and a statement of the amount
30 of tax due for that year on the basis of such a return.
31 Forms and instructions for such returns and corrected
32 returns shall be devised and supplied by the Commission.

33 (e) All returns submitted to the Commission by a public
34 utility as provided in this subsection (e) or subsection (d)

1 of this Section shall contain or be verified by a written
2 declaration by an appropriate officer of the public utility
3 that the return is made under the penalties of perjury. The
4 Commission may audit each such return submitted and may,
5 under the provisions of Section 5-101 of this Act, take such
6 measures as are necessary to ascertain the correctness of the
7 returns submitted. The Commission has the power to direct the
8 filing of a corrected return by any utility which has filed
9 an incorrect return and to direct the filing of a return by
10 any utility which has failed to submit a return. A
11 taxpayer's signing a fraudulent return under this Section is
12 perjury, as defined in Section 32-2 of the Criminal Code of
13 1961.

14 (f) (1) For all public utilities subject to paragraph
15 (1) of subsection (d), at least one quarter of the annual
16 amount of tax due under subsection (c) shall be paid to the
17 Commission on or before the tenth day of January, April,
18 July, and October of the calendar year subject to tax. In
19 the event that an adjustment in the amount of tax due should
20 be necessary as a result of the filing of an amended or
21 corrected return under subsection (d) or subsection (e) of
22 this Section, the amount of any deficiency shall be paid by
23 the public utility together with the amended or corrected
24 return and the amount of any excess shall, after the filing
25 of a claim for credit by the public utility, be returned to
26 the public utility in the form of a credit memorandum in the
27 amount of such excess or be refunded to the public utility in
28 accordance with the provisions of subsection (k) of this
29 Section. However, if such deficiency or excess is less than
30 \$1, then the public utility need not pay the deficiency and
31 may not claim a credit.

32 (2) Any public utility subject to paragraph (2) of
33 subsection (d) shall pay the amount of tax due under
34 subsection (c) on or before March 31 next following the end

1 of the calendar year subject to tax. In the event that an
2 adjustment in the amount of tax due should be necessary as a
3 result of the filing of a corrected return under subsection
4 (e), the amount of any deficiency shall be paid by the public
5 utility at the time the corrected return is filed. Any excess
6 tax payment by the public utility shall be returned to it
7 after the filing of a claim for credit, in the form of a
8 credit memorandum in the amount of the excess. However, if
9 such deficiency or excess is less than \$1, the public utility
10 need not pay the deficiency and may not claim a credit.

11 (g) Each installment or required payment of the tax
12 imposed by subsection (c) becomes delinquent at midnight of
13 the date that it is due. Failure to make a payment as
14 required by this Section shall result in the imposition of a
15 late payment penalty, an underestimation penalty, or both, as
16 provided by this subsection. The late payment penalty shall
17 be the greater of:

18 (1) \$25 for each month or portion of a month that
19 the installment or required payment is unpaid or

20 (2) an amount equal to the difference between what
21 should have been paid on the due date, based upon the
22 most recently filed estimated, annual, or amended return,
23 and what was actually paid, times 1%, for each month or
24 portion of a month that the installment or required
25 payment goes unpaid. This penalty may be assessed as
26 soon as the installment or required payment becomes
27 delinquent.

28 The underestimation penalty shall apply to those public
29 utilities subject to paragraph (1) of subsection (d) and
30 shall be calculated after the filing of the amended return.
31 It shall be imposed if the amount actually paid on any of the
32 dates specified in subsection (f) is not equal to at least
33 one-fourth of the amount actually due for the year, and shall
34 equal the greater of:

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

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

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

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

30 (1) determine the amount of all moneys deposited in
31 the Public Utility Fund during the preceding fiscal
32 biennium plus the balance, if any, in that fund at the
33 beginning of that biennium;

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

1 (A) all moneys expended or obligated against
2 appropriations made from the Public Utility Fund during
3 the preceding fiscal biennium, plus (B) the sum of the
4 credit memoranda then outstanding against the Public
5 Utility Fund, if any; and

6 (3) determine the amount, if any, by which the sum
7 determined as provided in item (1) exceeds the amount
8 determined as provided in item (2).

9 If the amount determined as provided in item (3) of this
10 subsection exceeds \$5,000,000, the Commission shall then
11 compute the proportionate amount, if any, which (x) the tax
12 paid hereunder by each utility during the preceding biennium,
13 and (y) the amount paid into the Public Utility Fund during
14 the preceding biennium by the Department of Revenue pursuant
15 to Sections 2-9 and 2-11 of the Electricity Excise Tax Law,
16 bears to the difference between the amount determined as
17 provided in item (3) of this subsection (i) and \$5,000,000.
18 The Commission shall cause the proportionate amount
19 determined with respect to payments made under the
20 Electricity Excise Tax Law to be transferred into the General
21 Revenue Fund in the State Treasury, and notify each public
22 utility that it may file during the 3 month period after the
23 date of notification a claim for credit for the proportionate
24 amount determined with respect to payments made hereunder by
25 the public utility. If the proportionate amount is less than
26 \$10, no notification will be sent by the Commission, and no
27 right to a claim exists as to that amount. Upon the filing of
28 a claim for credit within the period provided, the Commission
29 shall issue a credit memorandum in such amount to such public
30 utility. Any claim for credit filed after the period provided
31 for in this Section is void.

32 (j) Credit memoranda issued pursuant to subsection (f)
33 and credit memoranda issued after notification and filing
34 pursuant to subsection (i) may be applied for the 2 year

1 period from the date of issuance, against the payment of any
2 amount due during that period under the tax imposed by
3 subsection (c), or, subject to reasonable rule of the
4 Commission including requirement of notification, may be
5 assigned to any other public utility subject to regulation
6 under this Act. Any application of credit memoranda after the
7 period provided for in this Section is void.

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

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

15 (220 ILCS 5/13-511)

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

17 Sec. 13-511. Telecommunications ~~Municipal~~ Infrastructure
18 Maintenance Fee Act; rate adjustments. With respect to any
19 telecommunications retailer that is regulated by the Illinois
20 Commerce Commission, the Commission shall order such rate
21 adjustments as shall be necessary to assure that the
22 implementation of the Telecommunications ~~Municipal~~
23 Infrastructure Maintenance Fee Act, ~~including-the-payment-of~~
24 ~~the---State---infrastructure---maintenance---fee,---optional~~
25 ~~infrastructure--maintenance-fee,--and-municipal-infrastructure~~
26 ~~maintenance-fee,--if-any,~~ net of (1) the termination of any
27 fee, license fee, rent, or lease payment subject to the
28 Telecommunications ~~Municipal~~ Infrastructure Maintenance Fee
29 Act, and (2) the repeal of any invested capital tax subject
30 to the Telecommunications ~~Municipal~~ Infrastructure
31 Maintenance Fee Act, shall have no significant impact on the
32 net income of each such telecommunications retailer.
33 Beginning with the effective date of the Telecommunications

1 ~~Municipal~~ Infrastructure Maintenance Fee Act, each such
 2 telecommunications retailer shall maintain such records and
 3 accounts as will enable the Commission to make such findings
 4 and determinations as are necessary to such order.

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

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

8 (220 ILCS 65/4) (from Ch. 134, par. 20)

9 Sec. 4. Right of condemnation. Every telecommunications
 10 ~~telecommunications~~ carrier as defined in the
 11 Telecommunications ~~Municipal~~ Infrastructure Maintenance Fee
 12 Act may, when it shall be necessary for the construction,
 13 maintenance, alteration or extension of its
 14 telecommunications system, or any part thereof, enter upon,
 15 take or damage private property in the manner provided for
 16 in, and the compensation therefor shall be ascertained and
 17 made in conformity to the provisions of the Telegraph Act and
 18 every telecommunications carrier is authorized to construct,
 19 maintain, alter and extend its poles, wires, and other
 20 appliances as a proper use of highways, along, upon, under
 21 and across any highway, street, alley, public right-of-way
 22 dedicated or commonly used for utility purposes, or water in
 23 this State, but so as not to incommode the public in the use
 24 thereof: Provided, that nothing in this act shall interfere
 25 with the control now vested in cities, incorporated towns and
 26 villages in relation to the regulation of the poles, wires,
 27 cables and other appliances, and provided, that before any
 28 such lines shall be constructed along any such highway,
 29 street, alley, public right-of-way dedicated or commonly used
 30 for utility purposes, or water it shall be the duty of the
 31 telecommunications carrier proposing to construct any such
 32 line, to give (in the case of cities, villages, and

1 incorporated towns) to the corporate authorities of the
2 municipality or their designees (hereinafter, municipal
3 corporate authorities) or (in other cases) to the highway
4 commissioners having jurisdiction and control over the road
5 or part thereof along and over which such line is proposed to
6 be constructed, notice in writing in the form of plans,
7 specifications, and documentation of the purpose and
8 intention of the company to construct such line over and
9 along the highway, street, alley, public right-of-way
10 dedicated or commonly used for utility purposes, or water,
11 which notice shall be served at least 10 days before the line
12 shall be placed or constructed over and along the highway,
13 street, alley, public right-of-way dedicated or commonly used
14 for utility purposes, or water (30 days in the case of any
15 notice providing for excavation relating to new construction
16 in a public highway, street, alley, public right-of-way
17 dedicated or commonly used for utility purposes, or water);
18 and upon the giving of the notice it shall be the duty of the
19 municipal corporate authorities or the highway commissioners
20 to specify the portion of such highway, street, alley, public
21 right-of-way dedicated or commonly used for utility purposes,
22 or water upon which the line may be placed, used, and
23 constructed, and it shall thereupon be the duty of the
24 telecommunications retailer to provide the municipal
25 authorities or highway commissioners with any and all plans,
26 specifications, and documentation available and to construct
27 its line in accordance with such specifications; but in the
28 event that the municipal corporate authorities or the highway
29 commissioners fail to provide such specification within 10
30 days after the service of such notice, (25 days in the case
31 of excavation relating to new construction) then the
32 telecommunications retailer, without such specification
33 having been made, may proceed to place and erect its line
34 along the highway, street, alley, public right-of-way

1 dedicated or commonly used for utility purposes, or water by
2 placing its posts, poles and abutments so as not to interfere
3 with other proper uses of the highway, street, alley, public
4 right-of-way dedicated or commonly used for utility purposes,
5 or water. The telecommunications carrier proposing to
6 construct any such line shall comply with the provisions of
7 Section 9-113 of the Illinois Highway Code. Provided, that
8 the telecommunications carrier shall not have the right to
9 condemn any portion of the right-of-way of any railroad
10 company except as much thereof as is necessary to cross the
11 same.

12 The Illinois Commerce Commission may adopt reasonable
13 rules governing the negotiation procedures that are used by a
14 telecommunications carrier during precondemnation
15 negotiations for the purchase of land rights-of-way and
16 easements, including procedures for providing information to
17 the public and affected landowners concerning the project and
18 the right-of-way easements sought in connection therewith.

19 Such rules may be made applicable to interstate,
20 competitive intrastate and noncompetitive intrastate
21 facilities, without regard to whether such facilities or the
22 telecommunications carrier proposing to construct and operate
23 them would otherwise be subject to the Illinois Commerce
24 Commission's jurisdiction under The Public Utilities Act, as
25 now or hereafter amended. However, as to facilities used to
26 provide exclusively interstate services or competitive
27 intrastate services or both, nothing in this Section confers
28 any power upon the Commission (i) to require the disclosure
29 of proprietary, competitively sensitive, or cost information
30 or information not known to the telecommunications carrier,
31 (ii) to determine whether, or conduct hearings regarding
32 whether, any proposed fiber optic or other facilities should
33 or should not be constructed and operated, or (iii) to
34 determine or specify, or conduct hearings concerning, the

1 price or other terms or conditions of the purchase of the
2 right-of-way easements sought. With respect to facilities
3 used to provide any intrastate services classified in the
4 condemnor's tariff as noncompetitive under Section 13-502 of
5 The Public Utilities Act, the rulemaking powers conferred
6 upon the Commission under this Section are in addition to any
7 rulemaking powers arising under The Public Utilities Act.

8 No telecommunications carrier shall exercise the power to
9 condemn private property until it has first substantially
10 complied with such rules with respect to the property sought
11 to be condemned. If such rules call for providing notice or
12 information before or during negotiations, a failure to
13 provide such notice or information shall not constitute a
14 waiver of the rights granted in this Section, but the
15 telecommunications carrier shall be liable for all reasonable
16 attorney's fees of that landowner resulting from such
17 failure.

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

19 ARTICLE 95

20 Section 95-95. No acceleration or delay. Where this Act
21 makes changes in a statute that is represented in this Act by
22 text that is not yet or no longer in effect (for example, a
23 Section represented by multiple versions), the use of that
24 text does not accelerate or delay the taking effect of (i)
25 the changes made by this Act or (ii) provisions derived from
26 any other Public Act.

27 ARTICLE 99

28 Section 99-99. Effective date. Article 99 of this Act,
29 Article 95 of this Act, and the changes made in this Act to
30 Sections 5 and 20 of the Telecommunications Municipal

1 Infrastructure Maintenance Fee Act take effect upon becoming
2 law. Article 5 and Sections 90-22 and 90-30 of this Act take
3 effect on July 1, 2002. Sections 90-5, 90-10, 90-20, 90-25,
4 90-35, and 90-40 of this Act and the changes made in this Act
5 to Sections 1, 10, 15, 25, 27, 27.35, 30 and 35 of the
6 Telecommunications Municipal Infrastructure Maintenance Fee
7 Act take effect on January 1, 2003.