The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Communications, Energy, and Public Utilities Committee

BILL: CS/ SB 1198

INTRODUCER: Communications, Energy, and Public Utilities Committee and Senator Bogdanoff

SUBJECT: The Communications Services Tax

DATE: March 21, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	**Fav/CS**
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... [X] Statement of Substantial Changes

B. AMENDMENTS........................ [ ] Technical amendments were recommended

[ ] Amendments were recommended

[ ] Significant amendments were recommended

I. Summary:

The bill requires that a communication service provider compute the tax due on a sale of communications services imposed pursuant to the communications services tax and the gross receipts tax based on a rounding algorithm that meets specified criteria. The bill is intended to be remedial in nature and to apply retroactively; however, it is not intended to provide a basis for an assessment of any tax not paid or to create a right to a refund of any tax paid under this section before July 1, 2011.

The bill substantially amends section 202.16 of the Florida Statutes.

II. Present Situation:

Chapter 202, F.S., establishes the Communications Services Tax Simplification Law. This law restructured taxes applicable to a broad array of communications services, including local and long distance telephone services, cable television, direct-to-home satellite television, and other related services.

The communications services tax (CST) replaced and consolidated several different state and local taxes and fees into two taxes: the Florida CST and the local CST. The Florida CST is established in s. 202.12, F.S., and is applied at a rate of 6.8 percent to all communications services except direct-to-home satellite services, which are taxed at a rate of 10.8 percent. The local CST is established in s. 202.19, F.S., varies by jurisdiction, and is not applicable to direct-to-home satellite services. The Florida CST and the local CST are collected by communications service providers and remitted to the Department of Revenue (DOR), who distributes the proceeds to the appropriate jurisdictions.

Section 202.16(3), F.S., requires the Department of Revenue (DOR) to make available to dealers, in an electronic format or otherwise, the tax amounts and brackets applicable to each taxable sale such that the tax collected results in a tax rate no less than the tax rate imposed pursuant to chapters 202 and 203, F.S.

Chapter 203, F.S., provides for gross receipts taxes, taxes on the receipts for utility and communications services. Section 203.001, F.S, authorizes a dealer of communication services to collect a combined rate of 6.8 percent comprised of 6.65 percent and 0.15 percent required by ss. 202.12(1)(a) and 203.01(1)(b)3., respectively, as long as the provider properly reflects the tax collected with respect to the two provisions as required in the return to the DOR.

III. Effect of Proposed Changes:

Section 1 amends s. 202.16, F.S., to require that a communication service provider compute the tax due on a sale of communications services imposed pursuant to the CST and the gross receipts tax based on a rounding algorithm that meets the following criteria:

- The tax computation must be carried to the third decimal place.
- The tax must be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four.

A service provider may compute the tax due on a sale of communications services on a per-item or an invoice basis.

The rounding algorithm must be applied to the local CST separately from its application to the state CST and gross receipts tax.

A dealer may elect to apply the rounding algorithm to the communications services taxes imposed pursuant to ss. 202.12 and 203.01 in one of the following manners:

- Apply the rounding algorithm to the combined communications services tax imposed pursuant to ss. 202.12 and 203.01.
- Apply the rounding algorithm separately to the communications services tax imposed pursuant to s. 202.12(1)(a) and gross receipt tax imposed pursuant to ss. 203.01(1)(b)2. and 3.
- Apply the rounding algorithm to the combined taxes imposed pursuant to ss. 202.12(1)(a) and 203.01(1)(b)3., as allowed by s. 203.001, and apply the rounding algorithm separately to the gross receipts tax pursuant to s. 203.01(1)(b)2.

A dealer is not required to collect the tax based on a bracket system.

Section 2 provides that the bill is intended to be remedial in nature and to apply retroactively; however, it is not intended to provide a basis for an assessment of any tax not paid or to create a right to a refund of any tax paid under this section before July 1, 2011.

Section 3 provides that the bill takes effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

By changing how communications service providers calculate the amount of communications services tax owed, there will be an impact on the resulting tax revenue, the amount of which is unknown at this time.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Communications, Energy, and Public Utilities on March 21, 2011.
The committee substitute requires application of the rounding algorithm to the local communications services tax separately from the state taxes, and provides a more detailed statement of how the algorithm may be applied to the state taxes.

B. Amendments:

None.