

STORAGE NAME: h0153z.uco

DATE: May 5, 1999

**\*\*FINAL ACTION\*\***

**\*\*SEE FINAL ACTION STATUS SECTION\*\***

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
UTILITIES AND COMMUNICATIONS  
FINAL ANALYSIS**

**BILL #:** HB 0153

**RELATING TO:** Taxation of telecommunications service and for electrical power or energy

**SPONSOR(S):** Representative Rob Wallace

**COMPANION BILL(S):** SB 770(i)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) UTILITIES AND COMMUNICATIONS YEAS 7 NAYS 0
- (2) FINANCE AND TAX
- (3) GENERAL APPROPRIATIONS
- (4)
- (5)

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**I. FINAL ACTION STATUS:**

HB 153 was withdrawn from further consideration. Some of the language in the bill was amended on to HB 1949 which died in the Senate Committee on Fiscal Resources.

**II. SUMMARY:**

The bill reduces, from 7% to 6%, the tax on electrical power or energy, on "telecommunications service" as defined in section 203.012, Florida Statutes, and on those services described in section 203.012(2)(a), Florida Statutes. This tax applies to *non-residential* use; *residential* uses are exempt from the tax. Pursuant to the definition and description the reduction would apply to the following telecommunications services:

- local telecommunications service
- toll telephone service
- telegram / telegraph service
- teletypewriter service
- Private communication service
- cellular mobile service
- specialized mobile radio service
- pagers/paging service
- telecommunications access charges and charges for right of access
- centrex charges
- directory assistance charges
- public telephone charges
- touch-tone charges
- emergency number charges
- PBX message charges
- public announcement service charges
- dial-it charges
- local area data transport charges
- key-lines charges
- PBX trunk flat rate charges
- directory listing charges (other than yellow pages).

The bill also strikes the 7% language in section 212.12(11), Florida Statutes, to conform with the foregoing and provides an effective date.

This bill would reduce state tax revenues by \$91.1 million for FY 1999-2000 and \$102.4 million for FY 2000-2001. It would reduce the local government half-cent trust fund by \$8.5 million for FY 1999-2000 and \$9.6 million for FY 2000-2001.

### III. SUBSTANTIVE ANALYSIS:

#### A. PRESENT SITUATION:

Generally, the sales, storage and use tax is 6%. See section 212.05, Florida Statutes. However, for *non-residential* customers of electricity and telecommunications services this tax is 7%. See sections 212.05(1)(e)1.a and d, Florida Statutes. *Residential* customers are exempt from the tax. See section 212.08(7)(j), Florida Statutes. Wireless telecommunications such as cellular, PCS, and paging services, are treated as *non-residential* services and thus, are subject to the tax.

#### B. EFFECT OF PROPOSED CHANGES:

The effect of the proposed changes will be to strike language in section 212.05, Florida Statutes, and thereby reduce from 7% to 6%, the tax on electrical power or energy, on "telecommunications service" as defined in section 203.012, Florida Statutes, and on those services described in section 203.012(2)(a), Florida Statutes. This tax applies to *non-residential* use; *residential* uses are exempt from the tax. Pursuant to the definition and description the reduction would apply to the following telecommunications services:

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#### C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A.

(2) what is the cost of such responsibility at the new level/agency?

N/A.

(3) how is the new agency accountable to the people governed?

N/A.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes. The bill lowers sales tax on *non-residential* use of electricity and telephone service from 7% to 6%.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A.

(2) Who makes the decisions?

N/A.

(3) Are private alternatives permitted?

N/A.

(4) Are families required to participate in a program?

N/A.

(5) Are families penalized for not participating in a program?

N/A.

b. Does the bill directly affect the legal rights and obligations between family members?

N/A.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A.

(2) service providers?

N/A.

(3) government employees/agencies?

N/A.

D. STATUTE(S) AFFECTED:

Sections 212.05 and 212.12, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

See Section B., Effect of Proposed Changes.

#### IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

FY	99-00	00-01
General Revenue	(\$90.9m)	(\$102.2m)
Solid Waste Mgt. Trust fund	(\$ .2m)	(\$ .2m)

3. Long Run Effects Other Than Normal Growth:

Not anticipated.

4. Total Revenues and Expenditures:

FY	99-00	00-01
	(\$91.1m)	(\$102.4m)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

FY	99-00	00-01
Local Govt. Half Cent T.F.	(\$8.5m)	(\$9.6m)

3. Long Run Effects Other Than Normal Growth:

Not anticipated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

*Non-residential* consumers of electricity and telecommunications service, and all consumers of paging and wireless telecommunications services will pay a sales tax of 6% instead of 7%.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate.

D. FISCAL COMMENTS:

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

**Taxes and Fees Applicable to Telecommunications Service**

At the committee staff's request, BellSouth provided an overview of the numerous taxes and fees that are assessed on telecommunications services. This information is summarized below:

- \* 7% state sales tax
- \* .5 to 1.5% local option sales tax
- \* 2.5% gross receipts tax
- \* 7 or 10% municipal utilities tax (depending on tax option selected by local government)
- \* 1% local fee for permission to occupy right of way (the fee may be higher for older agreements that have been "grand-fathered")
- \* E-911 local charge of up to \$.50 per line per month
- \* \$.11 per month per line telecommunications relay surcharge
- \* \$3.50, \$5.00 or \$8.14 per month per line (depending on category of service) federal subscriber line charge
- \* Monthly charges for federal presubscribed interexchange carrier charge
- \* Monthly charges for federal universal service high cost fund
- \* 3% federal excise tax on telecommunications services.

**State and Local Taxes and Fees Applicable to Electricity**

- \* 7% state sales tax
  - \* .5 to 1.5% local option sales tax
  - \* 2.5% gross receipts tax
  - \* 7 or 10% municipal utilities tax (depending on tax option selected by local government)
- Franchise Fees are negotiated.

**Department of Revenue Comments**

To facilitate administration of the changes anticipated by the bill, the Department of Revenue has recommended that a new section 3 be inserted to read as follows:

On page 5, between lines 8 and 9, insert:

Section 3. With respect to charges for telecommunication service and for electric power and energy that are regularly billed on a monthly cycle, the changes in the sales tax rate provided for in this law shall apply to charges appearing on any bill dated on or after August 1, 1999.

According to the Department of Revenue, this provision would ease the administrative burden on telecommunication and electric companies that bill on a monthly basis by establishing a date certain for these changes.

**VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

The following amendment was adopted:

On page 5, between lines 8 and 9 of the bill

Insert:

Section 3. With respect to charges for telecommunication service and for electric power and energy that are regularly billed on a monthly cycle, the changes in the sales tax rate provided for in this law shall apply to charges appearing on any bill dated on or after August 1, 1999.

**VIII. SIGNATURES:**

**COMMITTEE ON UTILITIES AND COMMUNICATIONS:**

Prepared by:

Staff Director:

Charles Murphy

Patrick L. "Booter" Imhof

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON UTILITIES AND COMMUNICATIONS:**

Prepared by:

Staff Director:

Charles Murphy

Patrick L. "Booter" Imhof