

STORAGE NAME: h1537a.frc.doc
DATE: March 8, 2002

HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HB 1537
RELATING TO: Taxation of Communication Services
SPONSOR(S): Representative Byrd
TIED BILL(S): None

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

- (1) UTILITIES & TELECOMMUNICATIONS YEAS 9 NAYS 2
 - (2) FISCAL RESPONSIBILITY COUNCIL YEAS 20 NAYS 1
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

In 2000 the Legislature established a unified communications taxation scheme for the state, effective October 1, 2001. (Chapter 202, F.S.) The seven different types of communications taxes and fees were combined into a two-tiered tax composed of a state tax and a local option tax on communications services. In 2001 the Legislature set the rates and made other changes to chapter 202, F.S. Direct broadcast satellite (DBS) service or direct-to-home satellite service had been subject to a 6% state sales tax, while cable service was subject to state sales tax of 6%, and local franchise fees of up to 5%. The new rates were 13.17% for DBS and 9.17% plus a local variable rate for cable service.

This bill will phase in an exemption to the sales tax portion of 6.8% in the new communications services tax for residential direct-to-home satellite service and residential cable services over an 9-year period.

The total fiscal impact is a reduction in all state and local revenues of \$18.2 million for FY 2002-03 and \$39.2 million for FY 2003-04. By the end of the phase out of the sales tax, the total reduction is \$186 million.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

During the 2000 Regular Session, the Legislature enacted chapter 2000-260, Laws of Florida, (CS/CS/CS/SB 1338) to establish a unified communications taxation scheme for the state, effective October 1, 2001. This act was codified at chapter 202, Florida Statutes, and combined the seven different types of communications taxes and fees into a two-tiered tax composed of a state tax and a local option tax on communications services. Specifically, the act:

- o Expanded the tax base and combined the sales tax on communications services, the local public services tax, and local franchise fees on telecommunications companies and cable companies.
- o Allocated the gross receipts tax on communications services.
- o Provided a permit fee option for local governments.
- o Provided for a revenue neutral taxing scheme to be administered by the Department of Revenue.
- o Provided that the revenues are to be distributed to the Public Education Capital Outlay Fund, the General Revenue Fund and to local governments.

The act directed the communications companies and local governments to supply information regarding the assessment of the various taxes to the Department of Revenue. This information was used by the Revenue Estimating Conference to calculate revenue neutral rates for presentation to the 2001 Legislature.

Prior to October 1, 2001, the rates for the various communication services depended on the area of the state. The example below uses the maximum rate for a city or charter county.

Residential Telephone Service:
2.56% Gross Receipts Tax
7.00% or 10.00% Public Service Tax
1.00% Franchise Fee
Total maximum rate = 10.56% to 13.56%

Business/Wireless Telephone Service:
2.56% Gross Receipts Tax
7.00% Sales Tax
7.00% or 10.00% Public Service Tax
1.00% Franchise Fee
Total maximum rate = 17.56% to 20.56%

Direct-to-Home Satellite Service:
6.00% Sales Tax
Total maximum rate = 6.00%

Cable Service:
6.00% Sales Tax
5.00% Franchise Fee
Total maximum rate = 11.00%

Residential telephone service was exempt from the state sales tax of 7.00%.

During the 2001 Regular Session, the Legislature enacted chapter 2001-140, Laws of Florida, to set the rates on the new tax base and make other changes to chapter 202, Florida Statutes.

The state sales tax and gross receipts tax were combined into one state rate which consisted of a sales tax portion at 6.8% and a gross receipts portion at 2.37%. Because tax rates at the local level varied widely, a variable rate was established in the act for each county and municipality in the state. The direct-to-home satellite service was taxed at a rate of 10.8%, which included the 6.8% sales tax portion and a 4% portion to be distributed to the local governments, and was also subject to the 2.37% gross receipts portion. The example below uses the maximum rate for a city or charter county.

Residential Telephone Service:
2.37% Gross Receipts portion
0.00% Sales Tax portion (exempt)
x.xx% Variable Local Tax portion
Total rate = 2.37% state rate plus
x.xx% variable local rate

Business/Wireless Telephone Service:
2.37% Gross Receipts portion
6.80% Sales Tax portion
x.xx% Variable Local Tax portion
Total rate = 9.17% state rate plus
x.xx% variable local rate

Direct-to-Home Satellite Service:
2.37% Gross Receipts portion
10.8% Tax rate
6.80% State Tax portion
4.00% Flat Local Tax component
Total rate = 13.17%

Cable Service:
2.37% Gross Receipts portion
6.80% /State Tax portion
x.xx% Variable Local Tax portion
Total rate = 9.17% state rate plus
x.xx% variable local rate

Residential telephone service continues to be exempt from the sales tax portion of the new communications services tax.

C. EFFECT OF PROPOSED CHANGES:

This bill phases in an exemption to the sales tax portion of the new communications services tax for residential direct-to-home satellite service and residential cable services.

It phases out the state sales tax portion of the tax levied on residential direct-to-home satellite service pursuant to section 202.12(1)(c), Florida Statutes, over 8 years. After that time, residential direct-to-home satellite service will be subject only to the 4% local distribution portion and the 2.37% gross receipts portion of the communications services tax. The bill also phases out the state tax portion levied on residential cable services over the same period. After that, residential cable

service will be subject only to the variable local portion and the 2.37% gross receipts portion of the communications services tax.

It also phases out the state distribution under the direct-to-home satellite service portion of the communications services tax. It maintains the local option sales taxes for residential cable service.

D. SECTION-BY-SECTION ANALYSIS:

See Present Situation and Effect of Proposed Changes sections.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues:</u>	2002-03	2003-04
General Revenue Fund	(\$16.0 m)	(\$34.5 m)
Solid Waste Mgt. TF	(insignificant)	(\$0.1 m)
Total State	(\$16.0 m)	(\$34.6 m)

The Revenue Impact Conference estimated that state revenue reductions would be \$88.2 million by the fifth year of the phase out of the sales tax. With full implementation of the phase out, in the ninth year, state revenue reductions will be \$154.9 million.

The state General Revenue impact is a loss of \$16 million in 2002-03, with another \$72 million of General Revenue receipts changing from recurring to non-recurring, based on the estimated revenue reduction in the fifth year.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. <u>Revenues:</u>	2002-03	2003-04
Local Gov. Half Cent	(\$1.6 m)	(\$3.4 m)
County Revenue Sharing	(\$0.6 m)	(\$1.2 m)
Total Local	(\$2.2 m)	(\$4.6 m)

The Revenue Impact Conference estimated that local government revenue reductions would be \$11.8 million by the fifth year of the phase out of the sales tax. With full implementation of the phase out, in the ninth year, local government revenue reductions will be \$31.1 million.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The fiscal data are from the Revenue Impact Conference that met on February 8, 2002. The assumptions for the estimate are that the annual subscription growth rates for cable and DBS (satellite) service will remain constant over the forecast period and that the median monthly price for DBS services will also remain constant.

The State of Florida's share of cable and DBS services in the United States is roughly 5% based upon population shares. The residential shares sales in calendar year 1999 were 95% for cable service and 90% for DBS service.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This 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.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON UTILITIES & TELECOMMUNICATIONS:

Prepared by:

Staff Director:

Patrick L. "Booter" Imhof

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