HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5703 PCB FTC 12-05 Tax on Communications and Utility Services
SPONSOR(S): Finance & Tax Committee, Precourt
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee	22 Y, 1 N	Flieger	Langston
1) Appropriations Committee	24 Y, 0 N	Voyles	Leznoff

SUMMARY ANALYSIS

The bill will shift state revenue collections to the Public Education Capital Outlay and Debt Service Trust Fund (PECO) and away from the General Revenue fund and local governments.

The bill amends ss. 202.12 and 203.01, F.S., to reduce the state communications services tax rate to 6.2 percent from 6.65 percent and increase the “additional” gross receipts tax rate on communication services from 0.15 percent to 0.6 percent. The combined tax rate on communications services will not change.

The PECO Trust Fund is used to fund education capital outlay. The PECO Estimating Conference met on January 13, 2012 and forecasted that by the end of FY 2011-12, undisbursed, previously approved appropriations would exceed available cash in the PECO Trust Fund by $275.5 million. For FY 2012-13, the conference reduced the forecast of the maximum amount available for appropriation to zero. This estimate assumed $250 million in previously authorized bonds would not be issued, and receipts into the PECO Trust Fund that were not needed to pay debt would be used to pay for previously appropriated projects, including those for which bonds had been scheduled but not issued. As a result, the amount of undisbursed, pre-existing appropriations that exceeded cash dropped to $178.8 million by the end of FY 2012-13. This bill will generate enough revenue to provide the bonding capacity to issue the outstanding $250 million in PECO bonds which eliminates the current projected deficit and provides capacity for new bonds.

This bill has not yet been evaluated by the Revenue Estimating Committee. Staff estimates that in Fiscal Year 2012-13 General Revenue will be reduced by -$44.3 million (-$53.1 million recurring) and revenues shared with local governments will be reduced by -$5.6 million (-$6.8 million recurring). Revenues to the Public Education Capital Outlay and Debt Service Trust Fund (PECO) in Fiscal Year 2012-13 will be increased by $49.9 million ($59.9 million recurring). The increased revenues to the PECO fund will increase the maximum available appropriations from the fund to approximately $382 million in Fiscal Year 2012-13, compared to zero under current official forecasts.

The bill is effective on July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The sale of communications services which originate and terminate in Florida, or originate or terminate in Florida and are billed to a Florida address, are subject to the state communications services tax at a rate of 6.65 percent, except for direct-to-home satellite service, which is taxed at a rate of 10.8 percent. Residential telephone service, which does not include mobile telephone service, is exempt from this tax.

The revenue collected pursuant to this tax (except for 37 percent of the direct-to-home satellite tax revenue) is distributed by the same formula as the state sales tax, as provided by s. 212.20(6), F.S. Approximately 10.8 percent is distributed to local governments through county and municipal revenue sharing, the Local Government Half-cent Sales Tax Clearing Trust Fund and the distribution to counties of $29,915,500 that was formerly funded from pari-mutuel tax revenues. Smaller amounts are distributed to qualified counties for emergency distributions, selected sports facilities, and to the Public Employee Relations Trust Fund. The remainder of taxes remitted goes into the General Revenue Fund.

The tax on gross receipts for communications services is levied under ch. 203, F.S., at a base rate of 2.37 percent plus an additional 0.15 percent (for a total of 2.52 percent) on the sale of communications services. The tax is administered and collected pursuant to the provisions of ch. 202, F.S., but the exemption for communications services sold to residential households does not apply to the gross receipts tax levied at the base rate. All revenue received pursuant to this tax goes to the Public Education Capital Outlay and Debt Service ("PECO") Trust Fund. The use of such funds is limited to paying the principal or interest on bonds to finance capital projects for institutions of higher learning, community colleges, vocational technical schools, or public schools, deposit into any reserve funds related to the issuance of such bonds, or direct payment of the cost of any public educational facility capital project.

Section 215.61, F.S., limits the amount of PECO bonds that may be issued to 90 percent of the amount which the State Board of Education determines can be serviced by gross receipts tax revenues, based on the average annual amount of revenue collected in the most recent 24 months before the date of issuance of the bonds.

In 2010 the legislature reduced the communications services tax rate to 6.65 percent from 6.8 percent and created the 0.15 additional gross receipts tax on communications services to divert money from the communications services tax distribution to the PECO Trust Fund[1].

The PECO Estimating Conference met on January 13, 2012 and forecasted that by the end of FY 2011-12, undispersed, previously approved appropriations would exceed available cash in the PECO Trust Fund by $275.5 million. For FY 2012-13, the conference reduced the forecast of the maximum amount available for appropriation to zero. This estimate assumed $250 million in previously authorized bonds would not be issued, and receipts into the PECO Trust Fund that were not needed to pay debt would be used to pay for previously appropriated projects, including those for which bonds had been scheduled but not issued. As a result, the amount of undispersed, pre-existing appropriations that exceeded cash dropped to $178.8 million by the end of FY 2012-13.

Effect of Proposed Changes

[1] 2010-149, L.O.F.

The bill reduces the state communications services tax rate to 6.2 percent from 6.65 percent and increases the additional gross receipts tax rate on communication services from 0.15 percent to 0.6 percent. The combined tax rate on communications services will not change.

This bill generates enough revenue to provide the bonding capacity to issue the outstanding $250 million in PECO bonds which eliminates the current projected deficit and provides capacity for new bonds.

B. SECTION DIRECTORY:

Section 1 amends s. 202.12, F.S., reducing the communication services tax.

Section 2 amends s. 202.12001, F.S., conforming a cross reference.

Section 3 amends s. 203.001, F.S., conforming a cross reference.

Section 4 amends 203.01, F.S., increasing the additional gross receipts tax on communication services.

Section 5 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill has not yet been evaluated by the Revenue Estimating Committee. Staff estimates that in Fiscal Year 2012-13 General Revenue will be reduced by -$44.3 million (-$53.1 million recurring). Revenues to the Public Education Capital Outlay and Debt Service Trust Fund (PECO) in Fiscal Year 2012-13 will be increased by $49.9 million ($59.9 million recurring).

2. Expenditures:

   The increased tax revenues to the PECO fund will increase bonding capacity, resulting in an increase in the maximum available appropriations from the fund to approximately $382 million in Fiscal Year 2012-13, compared to zero under current official forecasts.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill has not yet been evaluated by the Revenue Estimating Committee. Staff estimates the bill will reduce state revenues shared with local governments in Fiscal Year 2012-13 by -$5.6 million ($6.8 million recurring).

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES