

# DEPARTMENT OF TAXATION

## 2009 Fiscal Impact Statement

1. **Patron** Ryan T. McDougale

3. **Committee** House Finance

4. **Title** Communications Sales and Use Tax;  
Distributions to Localities

2. **Bill Number** SB 891

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

**Second House:**

  X   **In Committee**

           **Substitute**

           **Enrolled**

### 5. **Summary/Purpose:**

This bill would allow localities to report to TAX any telecommunications or television cable funds collected in Fiscal Year 2006 from repealed local communications taxes and fees that were not submitted, or were incorrectly submitted, to the Auditor of Public Accounts in order to receive, or correct, monthly distributions from the Communications Sales and Use Tax Trust Fund. A locality may report such telecommunications or television cable funds to TAX by either an audited financial statement or a statement of receipts verified in writing by an independent certified public accountant. The locality would receive the monthly distributions beginning with the next distribution at least 60 days after TAX receives the statement.

Under current law, all of the revenues available for distribution to localities from Communications Sales and Use Tax Trust Fund are allocated based on a percentage determined by the Auditor of Public Accounts based on local revenues from repealed local communications taxes and fees received by localities in Fiscal Year 2006.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7. **Budget amendment necessary:** No.

### 8. **Fiscal implications:**

#### Administrative Costs

TAX would not incur any costs in the implementation of this bill.

#### Revenue Impact

This bill would have no impact on state revenues or on the total amount of Communications Sales Tax distributed. The bill allows localities to receive monthly distributions by reporting telecommunications or television cable funds from repealed local

communications taxes and fees collected in Fiscal Year 2006 to TAX. To the extent that any new distributions are received by a locality, all localities currently receiving distributions from the Communications Sales and Use Tax Trust Fund would experience a decrease in their distributions from the Fund.

**9. Specific agency or political subdivisions affected:**

All localities  
TAX

**10. Technical amendment necessary: No.**

**11. Other comments:**

Background

2006 House Bill 568 (Acts of Assembly 2006, Chapter 780) replaced many of the state and local communications taxes and fees with a centrally administered Communications Sales and Use Tax and a uniform statewide E-911 Tax on landline telephone service beginning January 1, 2007. Additionally, House Bill 568 imposed a public rights-of-way use fee on cable television providers beginning January 1, 2007.

Under House Bill 568, revenue from the Communications Sales and Use Tax, the Landline E-911 Tax and the Cable Television Rights-of-Way Fee (the "Communications Taxes") is collected and remitted monthly by communications services providers to TAX and deposited into a non-reverting fund known as the Communications Sales and Use Tax Trust Fund (the "Fund"). After transferring moneys from the Fund to TAX to pay for the direct costs of administering the Communications Taxes, the moneys in the Fund are allocated and distributed to localities after payment (1) to the Department of Deaf and Hard-of-Hearing to fund the telephone relay service center and (2) any franchise fee amount due to localities in accordance with any cable television franchise agreements in effect as of January 1, 2007. Each locality's share of the net revenue is distributed as soon as practicable after the end of the month based on the locality's share of total revenues received from the following taxes and fees in Fiscal Year 2006 from local tax rates adopted on or before January 1, 2006:

- Local consumer utility tax on landline and wireless telephone service;
- Local E-911 tax on landline telephone service;
- The portion of the local BPOL tax on public service companies exceeding .5% currently billed to customers in some grandfathered localities;
- Cable television franchise fees;
- Video programming excise tax on cable television services; and
- Consumer utility tax on cable television.

House Bill 568 required the Auditor of Public Accounts (“APA”) to determine the amount of revenues received by every locality for Fiscal Year 2006, at rates adopted on or before January 1, 2006, for each of these taxes and fees. Local governments and service providers were required to cooperate with the APA and provide requested information.

2008 Senate Bill 262 and House Bill 487 (Acts of Assembly 2008, Chapters 25 and 148) granted Bath County a monthly distribution from the Fund beginning July 1, 2008. In Fiscal Year 2006, Bath County did not impose any of these taxes on its residents, and, as a result, did not receive any distribution from the Communications Sales and Use Tax prior to the enactment of 2008 Senate Bill 262 and House Bill 487.

### Proposal

This bill would allow localities to report to TAX any telecommunications or television cable funds collected in Fiscal Year 2006 from repealed local communications taxes and fees that were not submitted, or were incorrectly submitted, to the Auditor of Public Accounts in order to receive, or correct, monthly distributions from the Communications Sales and Use Tax Trust Fund. A locality may report such telecommunications or television cable funds to TAX by either an audited financial statement or a statement of receipts verified in writing by an independent certified public accountant. The locality would receive the monthly distributions beginning with the next distribution at least 60 days after TAX receives the statement.

The effective date of this bill is not specified.

### Similar Legislation

**House Bill 2607** would allow the Town of Clifton to receive monthly distributions beginning on July 1, 2009 from the Communications Sales and Use Tax Trust Fund as if the Auditor of Public Accounts had certified that the town had received \$6,315 of telecommunications and television cable funds in Fiscal Year 2006.

cc : Secretary of Finance

Date: 2/6/2009 AM  
DLAS File Name SB891FE161