

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Anne B. Crockett-Stark

2. **Bill Number** HB 1090

3. **Committee** Passed by House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

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

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would allow a locality to request a ruling from TAX adjusting its distribution from the Communications Sales and Use Tax Trust Fund ("Fund") so long as the aggregate redistribution from all other localities does not exceed \$100,000. A locality would be required to present evidence to TAX that it had collected telecommunications or television cable funds in Fiscal Year 2006 from repealed local communications taxes and fees before obtaining a ruling from TAX.

This bill would also set the percentage share of the Fund for each locality as the percentage share that the locality received from the Fund in Fiscal Year 2010, except that Tazewell County would receive monthly distributions from the Communications Sales and Use Tax Trust Fund as if the Auditor of Public Accounts had certified that Tazewell County had received \$650,507 from the repealed local communications taxes and fees in Fiscal Year 2006.

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Fund are allocated based on a percentage determined by the Auditor of Public Accounts based on local revenues from repealed local communications taxes and fees received by localities in Fiscal Year 2006. Localities may report to TAX any telecommunications or television cable funds collected in Fiscal Year 2006 from repealed local communications taxes and fees that were not submitted, or were incorrectly submitted, to the Auditor of Public Accounts in order to receive, or correct,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 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 considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have no impact on state revenues or on the total amount of Communications Sales Tax distributed. The bill would provide that Tazewell County would receive monthly distributions equal to the distributions they would have received if the Auditor of Public Accounts had certified that it had collected \$650,507 from the repealed local communications taxes and fees in Fiscal Year 2006. All localities currently receiving distributions from the Communications Sales and Use Tax Trust Fund ("Fund") would experience a slight decrease in their distributions from the Fund to account for the increase in distribution to Tazewell County.

The bill also 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.

Localities may 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.

Tazewell County reported receiving \$435,231 from the cable franchise fee in Fiscal Year 2006.

Proposal

This bill would allow a locality to request a ruling from TAX adjusting its distribution from the Communications Sales and Use Tax Trust Fund ("Fund") so long as the aggregate redistribution from all other localities does not exceed \$100,000. A locality would be required to present evidence to TAX that it had collected telecommunications or television cable funds in Fiscal Year 2006 from repealed local communications taxes and fees before obtaining a ruling from TAX.

The proposed ruling process would not be used for localities that collected telecommunications or television cable funds in Fiscal Year 2006 that were not submitted, or were incorrectly submitted, to the Auditor of Public Accounts. Such localities would still be required to report such funds to TAX by either an audited financial statement or a

statement of receipts verified in writing by an independent certified public accountant, and would then begin to receive increased monthly distributions from the Fund.

This bill would also set the percentage share of the Fund for each locality as the percentage share that the locality received from the Fund in Fiscal Year 2010, except that Tazewell County would receive monthly distributions from the Communications Sales and Use Tax Trust Fund as if the Auditor of Public Accounts had certified that Tazewell County had received \$650,507 from the repealed local communications taxes and fees in Fiscal Year 2006.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 381 is identical to this bill.

House Bill 765 would allow Accomack County and Northampton County to receive additional monthly distributions from the Communications Sales and Use Tax Trust Fund.

cc : Secretary of Finance

Date: 2/26/2010 AM
DLAS File Name HB1090FER161