

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** Luke E. Torian

3. **Committee** House Finance

4. **Title** Communications Sales and Use Tax;
Distribution of Revenues

2. **Bill Number** HB 685

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would set the percentage share of the Communications Sales and Use Tax Trust Fund ("Fund") for each town as the percentage share that the locality received from the Fund in Fiscal Year 2014. The bill would also distribute the remaining revenue pro rata to the counties and cities receiving a share of the Fund in Fiscal Year 2014 based on the county's or city's population as shown by the most recent United States census. The provisions of the bill would apply to distributions of Communications Sales and Use Tax revenues beginning with the month of August and for each month thereafter.

The bill would also repeal the authorization for counties and cities to request a ruling from the Department of Taxation ("Department") to adjust its distribution from the Fund. Towns would continue to be authorized to request such a ruling. The Department would be required to develop and publish guidelines implementing the provisions of the bill.

Currently, Communications Sales and Use Tax revenues are distributed to localities based upon their pro rata distribution from the Fund in Fiscal Year 2010, which was generally based upon each locality's share of telecommunications and television cable funds collected by all localities in the Commonwealth in Fiscal Year 2006. Under current law, any county, city, or town may request a ruling from the Department to adjust its distribution from the Fund so long as the aggregate redistribution from all other localities does not exceed \$100,000. A locality is required to present evidence to the Department that it had collected telecommunications or television cable funds in Fiscal Year 2006 from repealed local communications taxes and fees before obtaining a ruling from the Department.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as “routine,” and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not “routine.” Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

Revenue Impact

This bill would have no impact on the total amount of revenues distributed from the Communications Sales and Use Tax Trust Fund (“Fund”). The bill would base the distribution of revenues to counties and cities on their population as shown by the most recent United States census. The proposed change would greatly increase the distribution to most counties while decreasing the distribution to most cities correspondingly. Overall, based on the 2010 Census, counties would receive an estimated additional \$43.8 million, with cities receiving a corresponding amount less. However, despite counties generally gaining revenue, Fairfax County is estimated to lose approximately \$25.7 million a year. The Cities of Norfolk and Richmond are each estimated to lose over \$10 million. Approximately \$433.5 million in Fund revenues were distributed to localities in Fiscal Year 2013. This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

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 the Department 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 the Department 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.

Effective July 1, 2010, House Bill 765 (Chapter 365), House Bill 1090 (Chapter 285) and Senate Bill 381 (Chapter 385) allow a locality to request a ruling from the Department 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 is required to present evidence to the Department that it collected telecommunications or television cable funds in Fiscal Year 2006 from repealed local communications taxes and fees before obtaining a ruling from the Department. A locality seeking an increase in its distribution that exceeds \$100,000 must obtain a law change.

Proposal

This bill would set the percentage share of the Communications Sales and Use Tax Trust Fund (“Fund”) for each town as the percentage share that the locality received from the Fund in Fiscal Year 2014. The bill would also distribute the remaining revenue pro rata to the counties and cities receiving a share of the Fund in Fiscal Year 2014 based on the county’s or city’s population as shown by the most recent United States census. The provisions of the bill would apply to distributions of communications sales and use tax revenues beginning with the month of August and for each month thereafter.

The bill would also repeal the authorization for counties and cities to request a ruling from the Department of Taxation ("Department") to adjust its distribution from the Fund. Towns would continue to be authorized to request such a ruling. The Department would be required to develop and publish guidelines implementing the provisions of the bill.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 586 is identical to this bill.

cc : Secretary of Finance

Date: 1/17/2014 AM
DLAS File Name: HB685F161