DEPARTMENT OF TAXATION
2015 Fiscal Impact Statement

1. Patron Dave A. LaRock

2. Bill Number HJ 635

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

3. Committee Senate Rules

4. Title Communications Sales and Use Tax; Study on Performance

Second House:
__X__ **In Committee**
_____ **Substitute**
_____ **Enrolled**

5. Summary/Purpose:

This resolution would direct the Department of Taxation to conduct a study of the Communications Sales and Use Tax with the input of an advisory panel comprising of representatives of local governments and affected segments of the communications industry. The study would i) evaluate the overall performance of the Communications Sales and Use Tax, ii) determine whether competing communications services are being taxed on an equal basis, iii) identify any communications services that are receiving a competitive advantage by not being taxed, and (iv) determine whether the tax is structured such that it will apply to new methods of communications. The Department would be required to complete its meetings by November 30, 2015 and submit its findings and recommendations no later than the first day of the 2016 General Assembly Session.

The effective date of this resolution is not specified.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

The Department considers implementation of this resolution as routine, and does not require additional funding. This resolution would have no impact on state or local 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 resolution would direct the Department of Taxation to conduct a study of the Communications Sales and Use Tax with the input of an advisory panel comprising of representatives of local governments and affected segments of the communications industry. The study would i) evaluate the overall performance of the Communications Sales and Use Tax, ii) determine whether competing communications services are being taxed on an equal basis, iii) identify any communications services that are receiving a competitive advantage by not being taxed, and (iv) determine whether the tax is structured such that it will apply to new methods of communications. The Department would be required to complete its meetings by November 30, 2015 and submit its findings and recommendations no later than the first day of the 2016 General Assembly Session.

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cc : Secretary of Finance

Date: 2/13/2015 AM
DLAS File Name: HJ635F161