

DEPARTMENT OF TAXATION

2007 Fiscal Impact Statement

1. **Patron** Danny C. Bowling

3. **Committee** House Finance

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

2. **Bill Number** HB 2919

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would change the basis of each locality's share of the monthly distribution of the net revenues from the new Communications Sales and Use Tax to include unpaid cable franchise fees. This bill would also require the Auditor of Public Accounts to increase the share for any locality that imposed a local communications tax for less than 12 months during Fiscal Year 2006 to estimate what would have been collected had the tax been in effect for the entire 12 months.

Under current law, each locality's share of the monthly distribution of the net revenues from the new Communications Sales and Use Tax is based on revenues actually collected by the locality from local communications taxes 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 incur no administrative costs in the implementation of this bill.

Revenue Impact

This bill would have no impact on state revenues. This bill would have an unknown impact on localities to the extent that each locality's percentage share of distributions from the Communications Sales and Use Tax Fund changes based on the amount of uncollected cable franchise fees. Localities that did not impose a local communications tax for the entire 12 months of Fiscal Year 2006 would also have their percentage share of distributions increased under this bill.

9. Specific agency or political subdivisions affected:

All localities
Department of Taxation
Auditor of Public Accounts

10. Technical amendment necessary:

If the intent of this bill is to require the Auditor of Public Accounts to survey localities to gather the information necessary to make the determinations required by this bill regarding each locality's share of distributions from the Communications Sales and Use Tax Fund as was required by House Bill 568, the following technical amendment is suggested:

Page 1, Line 51, After months.

Insert: 2. That the Auditor of Public Accounts (APA) shall calculate each locality's percentage share of future distributions from the Communications Sales and Use Tax Fund by the Department of Taxation as required by this act. Local governments and service providers shall cooperate with the APA and provide information to him as requested by October 1, 2007 verified in writing by an independent certified public accountant. Any locality that fails to furnish the information required to make this calculation in a timely manner shall not be entitled to participate in future distributions from the Communications Sales and Use Tax Fund, and its percentage share shall be disregarded in calculating the distribution to other localities. The APA or his agent shall not divulge any information acquired by him in the performances of his duties that may identify specific service providers. The APA shall report his findings to the chairmen of the House and Senate Finance Committees and the Department of Taxation no later than December 1, 2007.

3. That the provisions of the second enactment of this act shall be effective July 1, 2007 and the remaining provisions of this act shall be effective January 1, 2008.

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.

Additionally, on an annual basis, the APA is required to collect from local governments and providers any data necessary to determine changes in (1) market area and number of customers served, (2) types of services available, (3) population, and (4) possible local reimbursement. The APA is required to make an annual report of his findings to the chairmen of the House and Senate Finance Committees no later than December 1 each year.

Proposal

This bill would change the basis of each locality's share of the monthly distribution of the net revenues from the new Communications Sales and Use Tax to include unpaid cable franchise fees. This bill would also require the Auditor of Public Accounts to increase the share for any locality that imposed a local communications tax for less than 12 months during Fiscal Year 2006 to estimate what would have been collected had the tax been in effect for the entire 12 months.

As this bill lacks a mechanism for TAX to determine what each locality would have received from unpaid cable franchise fees and the pro-rated share for any locality that imposed a local communications tax for less than 12 months during Fiscal Year 2006, TAX is proposing a technical amendment that would require the Auditor of Public Accounts to make this determination. The procedure set forth in this technical amendment is modeled after the procedure set forth in House Bill 568 by which the Auditor of Public Accounts made this determination regarding Fiscal Year 2006 revenues.

In order to give the Auditor of Public Accounts sufficient time to survey localities and make his determination, the proposed amendment sets an effective date of January 1, 2008.

Other Legislation

Senate Bill 1081 is identical to this bill.

House Bill 1854 would base each locality's monthly distribution of the net revenues from the new Communications Sales and Use Tax on the locality's share of total statewide revenues received by localities from local communications taxes and fees in Fiscal Year 2007, instead of Fiscal Year 2006.

House Bill 2723 would exempt customers on federal military bases or installations from the communications sales and use tax where a franchise fee is payable to the federal government on the services.

Senate Bill 1135 would authorize Charles City County to adopt a tax on mobile telecommunications services in the county.

cc : Secretary of Finance

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