

# DEPARTMENT OF TAXATION

## 2010 Fiscal Impact Statement

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

2. **Bill Number** HB 1090

3. **Committee** House Finance

**House of Origin:**

  X   **Introduced**

      **Substitute**

      **Engrossed**

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

**Second House:**

      **In Committee**

      **Substitute**

      **Enrolled**

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

This bill would allow Tazewell County to receive an additional monthly distribution from the Communications Sales and Use Tax Trust Fund as if the Auditor of Public Accounts had certified that Tazewell County had received an additional \$215,276 from the repealed local communications taxes and fees in Fiscal Year 2006.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Fund are allocated based on a percentage determined by the Auditor of Public Accounts based on local revenues from repealed local communications taxes and fees received by localities in Fiscal Year 2006.

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. Tazewell County reported receiving \$435,231 from the cable franchise fee in Fiscal Year 2006. TAX has suggested a technical amendment that, beginning July 1, 2010, Tazewell County shall receive monthly distributions equal to the distributions it would receive if the Auditor of Public Accounts had certified that Tazewell County had received \$650,507 of telecommunications and television cable funds in Fiscal Year 2006.

If TAX's technical amendment is adopted, 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they would have received if the Auditor of Public Accounts had certified that it had collected \$650,507 from the repealed local communications taxes and fees in Fiscal Year 2006.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.

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

All localities  
TAX

**10. Technical amendment necessary: Yes.**

If the intent of this bill is to allow Tazewell County to increase its distributions from the Communications Sales and Use Tax, the following technical amendments are suggested:

Page 1, Line 30, After Year  
Strike: 2010  
Insert: 2007

Page 1, Line 39, After 2006.  
Strike: Tazewell County also shall receive monthly distributions that it would have received if the  
Insert: Beginning July 1, 2010, Tazewell County shall receive monthly distributions equal to the distributions it would have received if the Auditor of Public Accounts had certified that it had received \$650,507 of telecommunications and television cable funds in Fiscal Year 2006.

Page 1, Line 40, After Beginning of the line  
Strike: Lines 40 through 42

**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.

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

### Proposal

This bill would allow Tazewell County to also 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 \$215,276 of telecommunications and television cable funds 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 require the Auditor of Public Accounts to increase the amount of a locality's share of the distribution from the Communications Sales and Use Tax Trust Fund on a prorated basis in the event that the locality imposed the local tax for less than 12 months.

cc : Secretary of Finance

Date: 1/19/2010 AM  
DLAS File Name HB1090F161