

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Lynwood W. Lewis, Jr.

3. **Committee** House Finance

4. **Title** Communications Sales and Use Tax;
Distribution Formula

2. **Bill Number** HB 765

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would require the Auditor of Public Accounts to increase the amount of any locality's share of the distribution from the Communications Sales and Use Tax Trust Fund in the event that the locality imposed a local tax on communications services for less than 12 months in Fiscal Year 2006. The locality's share of the distribution would be adjusted as if the tax had been imposed for the entire 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on each locality's percentage share, as determined by the Auditor of Public Accounts, of total local revenues from repealed local communications taxes and fees received by localities in Fiscal Year 2006.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. TAX understands that this bill is intended to allow Accomack County and Northampton County to receive distributions as if the Auditor of Public Accounts had certified that Accomack County had received an additional \$84,166 of telecommunications and television cable funds in Fiscal Year 2006, and that

Northampton County had received an additional \$23,368 of telecommunications and television cable funds in Fiscal Year 2006. However, as written, the bill would potentially affect other localities.

TAX has suggested a technical amendment that, beginning July 1, 2010, Accomack County and Northampton County shall receive monthly distributions equal to the distributions they would have received if the Auditor of Public Accounts had certified that Accomack County had received \$1,111,376 and Northampton County had received \$549,025 of telecommunications and television cable funds in Fiscal Year 2006.

To the extent that any locality receives an increased distribution, all localities currently receiving distributions from the Communications Sales and Use Tax Trust Fund would experience a decrease in their distributions from the Fund.

If TAX's technical amendment is adopted, the bill would provide that Accomack County and Northampton 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 \$1,111,376 and \$549,025, respectively, 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 would experience a slight decrease in their distributions from the Fund to account for the increase in distribution to Accomack County and Northampton 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 Accomack County and Northampton County to receive increased distributions from the Communications Sales and Use Tax, the following technical amendments are suggested:

Page 1, Line 39, After 2006.

Insert: Beginning July 1, 2010, Accomack County shall receive monthly distributions equal to the distributions it would receive if the Auditor of Public Accounts had certified that it had received \$1,111,376 and Northampton County shall receive monthly distributions equal to the distributions it would receive if the Auditor of Public Accounts had certified that it had received \$549,025 of telecommunications and television cable funds in Fiscal Year 2006.

Page 1, Line 52, After 2006.

Strike: In the event that any locality imposed the tax for less than 12 months

Page 1, Line 53, After Beginning of the line

Strike: Lines 53 through 55

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.

Proposal

This bill 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.

The effective date of this bill is not specified.

Similar Legislation

House Bill 661 and **Senate Bill 279** would increase the monthly landline and wireless E-911 taxes by \$0.18 per access line to provide additional funding for the Line of Duty Health Benefits Trust Fund. This bill would also amend the Line of Duty Act to include local employees who were disabled in the line of duty on or after January 1, 1966.

House Bill 973 and **Senate Bill 97** would increase the monthly landline and wireless E-911 taxes by \$0.05 per access line to provide additional funding for the Line of Duty Health Benefits Trust Fund and would also amend the Line of Duty Act to include local employees who were disabled in the line of duty on or after January 1, 1966.

House Bill 754 and **Senate Bill 441** would repeal the current E-911 fee on prepaid wireless service and would impose a new prepaid wireless E-911 fee of \$0.50 on each retail purchase of prepaid wireless calling service.

House Bill 1090 and **Senate Bill 381** would allow Tazewell County to increase its share of the monthly distributions from the Communications Sales and Use Tax Trust Fund.

cc : Secretary of Finance

Date: 1/17/2010 AM
DLAS File Name HB765F161