Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 563 (Delegate Hixson, *et al.*)
Ways and Means Budget and Taxation

Communications Taxes - Reform Commission

This bill establishes the Communications Tax Reform Commission to assess the feasibility and fiscal implications of a competitively neutral communications tax and fee system that eliminates the disparate treatment of similar communications service providers. The commission must be staffed by the Comptroller and the State Department of Assessments and Taxation (SDAT). The commission must make an interim report of its findings and recommendations to the Governor and the General Assembly on or before December 31, 2012. The commission must make a final report of its findings and recommendations to the Governor and the General Assembly on or before June 30, 2013.

The bill takes effect June 1, 2012, and terminates June 30, 2013.

Fiscal Summary

State Effect: Any expense reimbursements for commission members and staffing costs for the Comptroller's Office and SDAT are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill establishes the Communications Tax Reform Commission. The commission must assess the feasibility and fiscal implications for the State and local governments of a modernized, competitively neutral communications tax and fee system that eliminates the disparate treatment of similar communications service providers. In addition, the commission must assess the efficacy of tax and other incentives to encourage investment in broadband networks and emerging technologies.

In conducting the assessment, the commission must examine the following taxes and fees as they relate to consumers and providers of communications services: (1) State and local property taxes; (2) the public service company franchise tax; (3) sales and use taxes; (4) the corporate income tax; (5) local communications taxes and fees; and (6) any other communications tax or fee that the commission determines is relevant to the assessment.

The Comptroller and SDAT must collect data from the State and local governments to determine the amount of revenue collected by the State and local governments from all relevant taxes and fees on communications services during fiscal 2012.

The Comptroller and SDAT must collect data from communications service providers to determine the amount of revenue remitted to the State and local governments by each communications service provider in relevant taxes and fees on communications services during fiscal 2012.

The Comptroller and SDAT must provide the information to the commission promptly on receipt of the information or by December 15, 2012, whichever is earlier. However, the data collected may not be disclosed to the public unless it is aggregated so that market share and other sensitive market information for individual providers cannot be determined.

State government agencies, local governments, and communications service providers are required to cooperate reasonably with the data collection efforts undertaken by the Comptroller and SDAT. The Comptroller or SDAT is authorized to subpoena a State or local government agency or communications service provider that fails to cooperate reasonably with data collection efforts.

Current Law: The State sales and use tax is imposed on several telecommunications related services including cellular phone and other mobile telecommunications services, telephone custom calling features, 900-type telephone services, telephone answering services, and prepaid telephone calling arrangements.

In addition, a public service company franchise tax of 2% is imposed on the gross receipts of telephone, electric, and gas companies. Gross receipts are defined as the total operating revenues of the public service company, excluding revenue derived from an activity other than a telephone, electric, or natural gas business. Gross receipts do not include uncollectible revenue, receipts from a service or product resold by another public service company that is subject to the tax, or gross receipts from the sale of electricity or natural gas.

For electric and gas companies, a second tax is imposed measured by the kilowatt hours of electricity or therms of natural gas delivered for final consumption in the State.

Currently, most counties and Baltimore City impose one or more local sales and service taxes. Counties, municipal corporations, and special taxing districts are generally limited to imposing sales and use taxes on fuels, utilities, space rentals, and in code counties only and to a limited extent, on food and beverages in a resort area. For example, Worcester County, a code county, imposes a 0.5% food and beverage tax within Ocean City. These taxes are generally authorized under State law. The authorizations in some cases allow for exemptions to be granted by the counties, restrict the use of the revenue collected, set a limit on the tax rate, or require certain procedures such as a public hearing before imposing a tax.

Background: County governments are authorized to impose a variety of taxes on telecommunications services, as well as franchise fees on cable television companies located in their jurisdictions. **Exhibit 1** shows the fiscal 2012 telecommunications tax rates and estimated revenues for fiscal 2011 and 2012 in the counties that impose these types of taxes. **Exhibit 2** shows the cable television franchise fee rates for fiscal 2012 and estimated revenues for fiscal 2011 and 2012.

Exhibit 1
Local Telecommunications Taxes – Rates and Revenue

County	Unit Taxed	Tax Rate*	FY 2011 Revenue	FY 2012 Revenue
Anne Arundel	residential	8% sales tax	$6,000,000	$5,800,000
Baltimore City	residential, nonresidential, and wireless/Centrex	$4.00 per line/ $0.40 per line	34,937,114	33,720,000
Baltimore	residential and nonresidential	8% sales tax	9,800,000	9,800,000
Montgomery	monthly land line/wireless	$2.00/$3.50 per line	49,620,000	51,528,000
Prince George's	residential, nonresidential, and wireless	8% sales tax	41,982,171	42,334,100

*Tax rates were the same for fiscal 2011.
Source: 2011 Budget and Tax Rate Survey, Maryland Association of Counties

Exhibit 2
Cable Television Franchise Fees – Rates and Revenues

County	Franchise Fee	FY 2011 Yield	FY 2012 Yield	Number of Companies	County Franchise
Allegany	5%	$340,000	$350,000	2	Y
Anne Arundel	5%	7,840,000	8,500,000	4	Y
Baltimore City	5%	6,130,459	5,400,000	1	Y
Baltimore	5%	12,240,000	12,852,000	2	Y
Calvert	5%	1,050,000	1,100,000	1	Y
Caroline	5%	134,376	136,000	1	Y
Carroll	5%	1,150,000	1,200,000	1	Y
Cecil	5%	319,000	333,010	3	Y
Charles	5%	1,694,600	1,710,900	0	Y
Dorchester	0%	0	0	0	N
Frederick	0%	0	0	1	N
Garrett	0%	0	0	3	N
Harford	3%	1,400,000	1,400,000	3	Y
Howard	5%	4,000,000	4,467,940	3	Y
Kent	3%, 5%	19,500	20,000	2	Y
Montgomery	5%	13,939,000	14,997,000	1	Y
Prince George's	5%	9,427,730	8,845,900	2	Y
Queen Anne's	5%	315,000	320,000	1	Y
St. Mary's	5%	775,000	800,000	2	Y
Somerset	3%	100,956	95,000	2	Y
Talbot	2%	24,000	24,000	2	Y
Washington	0%	0	0	0	N
Wicomico	5%	820,000	820,000	2	Y
Worcester	0%	0	0	0	N
Total		**$61,719,621**	**$63,371,750**		

Source: Maryland Association of Counties

Additional Information

Prior Introductions: None.

Cross File: SB 567 (Senator King, *et al.*) - Budget and Taxation.

Information Source(s): State Department of Assessments and Taxation, Comptroller's Office, Maryland Association of Counties, Maryland Municipal League, Public Service Commission, Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2012
ncs/jrb Revised - House Third Reader - March 30, 2012

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