The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Policy and Steering Committee on Ways and Means

BILL: CS/SB 2024

INTRODUCER: Policy and Steering Committee on Ways and Means and Senator Alexander

SUBJECT: Tax on Communications and Utility Services

DATE: March 28, 2010 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Coburn	WPSC	**Fav/CS**
2.			GO	
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	x	Statement of Substantial Changes
B. AMENDMENTS........................		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill reduces the communications services tax rate levied under s. 202.12(1)(a), F.S. from 6.8 percent to 6.65 percent and increases the gross receipts tax levied under s. 203.(1)(b), F.S., on those communications services subject to tax under s. 202.12(1)(a), F.S., by an offsetting amount. The bill further provides that the limitation imposed by s. 215.61 (3), F.S., on the amount of public education capital outlay (PECO) bonds that may be issued shall be adjusted to reflect revenues that would have been collected if any legislation enacted before the date of determination of the limit had been in effect for 24 months before the dates contemplated by the legislation. An obsolete requirement that 100 percent of the amount required to provide for the debt service for the current fiscal year of any bonds issued before July 1, 1975 be deducted before making the determination is deleted.

This bill reduces general revenue and revenue shared with local governments by $20.4 million in 2010-11 and by $22.3 million on a recurring basis. The local share of the loss is $2.3 million and $2.5 million, respectively. The bill increases revenue to the PECO Fund by $20.4 million in 2010-11 and $22.3 on a recurring basis. On the basis of this additional revenue flowing to the trust fund, $292.4 million in additional PECO bonds can be issued.

This bill amends ss. 202.12, 202.125, 203.01, and 215.61, F.S.

II. Present Situation:

The sale of communications services which originate and terminate in Florida, or originate or terminate in Florida and are billed to a Florida address, are subject to the state communications services tax at a rate of 6.8 percent, except for direct-to-home satellite service, which is taxed at rate of 10.8 percent. Residential telephone service, which does not include mobile telephone service, is exempt from this tax.

The revenue collected pursuant to this tax (except for 37 percent of the direct-to-home satellite tax revenue) is distributed by the same formula as the state sales tax, as provided by s. 212.20(6), F.S. Approximately 10.8 percent is distributed to local governments through county and municipal revenue sharing and the Local Government Half-cent Sales Tax Clearing Trust Fund and the distribution to counties of $29, 915,500 that was formerly funded from pari-mutuel tax revenues. Smaller amounts are distributed to qualified counties for emergency distributions and to selected sports facilities. The remainder of taxes remitted goes into the General Revenue Fund.

The gross receipts tax is levied under ch. 203, F.S., at a rate of 2.37 percent on the sale of communications services. The tax is administered and collected pursuant to the provisions of ch. 202, but the exemption for communications services sold to residential households does not apply to the gross receipts tax. All revenue received pursuant to this tax goes to the Public Education Capital Outlay and Debt Service (PECO) Trust Fund, which is limited to paying the principal or interest on bonds to finance capital projects for institutions of higher learning, community colleges, vocational technical schools, or public schools, deposit into any reserve funds related to the issuance of such bonds, or direct payment of the cost of any public educational facility capital project.

Section 215.61, F.S., limits the amount of PECO bonds that may be issued to 90 percent of the amount which the State Board of Education determines can be serviced by gross receipts tax revenues, based on the average annual amount of revenue collected in the most recent 24 months before the date of issuance of the bonds. This amount must be reduced by the amount required for debt service for the current fiscal year for bonds issued before July 1, 1975. (This adjustment is no longer needed since there are no outstanding bonds dating from this period.)

III. Effect of Proposed Changes:

This bill decreases the state communications services tax rate from 6.8 percent to 6.65 percent and increases the gross receipts tax rate for communications services from 2.37 percent to 2.52 percent for those communications services subject to tax under s. 202.12(1)(a), F.S. Separately stated communications services sold to residential households will not be subject to the higher gross receipts tax.

The effect of these changes in taxation of communications services will not be felt by consumers of these services. The amount of taxes levied on these services will be unchanged. The disposition of the tax revenue will change, however, with more revenue going into the PECO fund and less going to the General Revenue Fund and local governments.

The bill also amends s. 215.61, F.S., to adjust the limitation on the amount of PECO bonds that may be issued. The existing 90 percent limitation based on the previous 24 months of revenue collections is adjusted to consider revenue that would have been collected if a law change had been in effect for that period.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill will reduce the state communications services tax by 0.15 percent and increase the gross receipts tax on the same tax base by 0.15 percent.

B. Private Sector Impact:

The private sector will not be affected by the tax changes in this bill since the amount of tax is unchanged. This bill will allow more PECO bonds to be issued, which may positively affect the construction sector of the economy.

C. Government Sector Impact:

This bill reduces general revenue and revenue shared with local governments by $20.4 million in 2010-11 and by $22.3 million on a recurring basis. The local share of the loss is $2.3 million and $2.5 million, respectively.

The bill increases revenue to the PECO Fund by $20.4 million in 2010-11 and $22.3 on a recurring basis. $292.4 million in additional PECO bonds can be issued on the basis of this additional revenue to the trust fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Policy and Steering Committee on Ways and Means on March 26, 2010:

- Reduces the communications services tax rate levied under s. 202.12(1)(a), F.S., from 6.8 percent to 6.65 percent
- Increases the gross receipts tax levied under s. 203.(1)(b), F.S., on those communications services subject to tax under s. 202.12(1)(a), F.S., by an offsetting amount.
- Provides that the limitation imposed on the amount of public education capital outlay (PECO) bonds that may be issued shall be adjusted to reflect revenues that would have been collected if any legislation enacted before the date of determination of the limit had been in effect for 24 months before the dates contemplated by the legislation.
- Deletes an obsolete requirement that 100 percent of the amount required to provide for the debt service for the current fiscal year of any bonds issued before July 1, 1975 be deducted before making the determination.

B. Amendments:

None.