

STORAGE NAME: h0513z.uco
DATE: May 15, 2000

****FAILED TO PASS THE LEGISLATURE****
HOUSE OF REPRESENTATIVES

**COMMITTEE ON
COMMITTEE ON UTILITIES & COMMUNICATIONS
FINAL ANALYSIS**

BILL #: HB 513

RELATING TO: Sales Tax/Telecommunications Service and Electrical Power or Energy

SPONSOR(S): Representative Wallace

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) UTILITIES AND COMMUNICATIONS YEAS 12 Nays 0
 - (2) FINANCE AND TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

The bill reduces from 7% to 6%, the tax on electrical power or energy, on "telecommunications service" as defined in s. 203.012, Florida Statutes, and on those services described in s. 203.012(2)(a), Florida Statutes. This tax applies to *non-residential* use; *residential* uses are exempt from the tax. However, calls made with a prepaid telephone calling card are subject to the tax, which is collected by the dealer selling the card or recharge.

The bill also strikes the 7% language in section 212.12(11), Florida Statutes, to conform with the foregoing.

This bill would reduce state revenues by \$102.4 million for FY 2000-2001. It would reduce the local government half-cent trust fund by \$9.6 million for FY 2000-2001.

The bill does not appear to be a mandate.

The effective date is July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Generally, the sales, storage and use tax is 6%. See s. 212.05, Florida Statutes. However, for *non-residential* customers of electricity and telecommunications services this tax is 7%. See ss. 212.05(1)(e)1.a. and d., Florida Statutes. *Residential* customers are exempt from the tax. See s. 212.08(7)(j), Florida Statutes. Wireless telecommunications such as cellular, PCS, and paging services, are treated as *non-residential* services and thus, are subject to the tax. Calls made with a prepaid telephone calling card are subject to the tax, which is collected by the dealer selling the card or recharge. See s. 212.91)(e)1.a., Florida Statutes.

C. EFFECT OF PROPOSED CHANGES:

The effect of the proposed changes will be to strike language in s. 212.05, Florida Statutes, and thereby reduce from 7% to 6%, the tax on electrical power or energy, on "telecommunications service" as defined in s. 203.012, Florida Statutes, and on those services described in s. 203.012(2)(a), Florida Statutes. This tax applies to *non-residential* use; *residential* uses are exempt from the tax. The reduction would apply to the following telecommunications services:

- calls made using a prepaid calling card
- local telecommunications service
- toll telephone service
- telegram / telegraph service
- teletypewriter service
- Private communication service
- cellular mobile service
- specialized mobile radio service
- pagers/paging service
- telecommunications access charges and charges for right of access
- centrex charges
- directory assistance charges
- public telephone charges
- touch-tone charges
- emergency number charges

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- PBX message charges
- public announcement service charges
- dial-it charges
- local area data transport charges
- key-lines charges
- PBX trunk flat rate charges
- directory listing charges (other than yellow pages).

The bill also strikes the 7% language in s. 212.12(11), Florida Statutes, to conform with the foregoing and provides an effective date.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 of the bill strikes language in s. 212.05, Florida Statutes, imposing a 7 percent sales and use tax on charges for telecommunications service, electrical power and energy.

Section 2 of the bill strikes language in s. 212.12(11), Florida Statutes that cross references the 7 percent tax language found in s. 212.05(1)(e) that is amended by Section 1 of the bill.

Section 3 of the bill provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

FY	00-01
General Revenue	(\$102.2m)
Solid Waste Mgt. Trust Fund	<u>(\$.2m)</u>
	(\$104.4m)*

* Based on estimates from last session for HB 153 (1999) which was an identical bill.

2. Expenditures:

FY	99-00
Nonrecurring	
General Revenue	\$148,708
Administrative Trust Fund	<u>\$187,632</u>
	\$366,340*

* Department of Revenue estimated costs to administer HB-513.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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1. Revenues:

FY	00-01
Local Govt. Half Cent T.F.	(9.6m)*

* Based on estimates from last session for HB 153 (1999) which was an identical bill.

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Residential sales are exempt from the taxes at issue; however, the bill will reduce the amount that businesses pay for electricity, energy, and telephone service from 7% to 6%.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

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B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The bill is identical to HB 153 (1999) which the committee passed last session.

Taxes and Fees Applicable to Telecommunications Service

At the committee staff's request, BellSouth provided an overview of the numerous taxes and fees that are assessed on telecommunications services. This information is summarized below:

- * 7% state sales tax
- * .5 to 1.5% local option sales tax
- * 2.5% gross receipts tax
- * 7 or 10% municipal utilities tax (depending on tax option selected by local government)
- * 1% local fee for permission to occupy right of way (the fee may be higher for older agreements that have been "grand-fathered")
- * E-911 local charge of up to \$.50 per line per month
- * \$.11 per month per line telecommunications relay surcharge
- * \$3.50, \$5.00 or \$8.14 per month per line (depending on category of service) federal subscriber line charge
- * Monthly charges for federal presubscribed interexchange carrier charge
- * Monthly charges for federal universal service high cost fund
- * 3% federal excise tax on telecommunications services.

State and Local Taxes and Fees Applicable to Electricity

- * 7% state sales tax
 - * .5 to 1.5% local option sales tax
 - * 2.5% gross receipts tax
 - * 7 or 10% municipal utilities tax (depending on tax option selected by local government)
- Franchise Fees are negotiated.

Department of Revenue Comments

To facilitate administration of the changes anticipated by the bill, the Department of Revenue ("Department") has recommended that a new section 3 be inserted to read as follows:

On page 5, between lines 24 and 25, insert:

Section 3. With respect to charges for telecommunication service and for electric power and energy that are regularly billed on a monthly cycle, the changes in the sales tax rate provided for in this law shall apply to charges appearing on any bill dated on or after August 1, 2000.

According to the Department of Revenue, this provision would ease the administrative burden on telecommunication and electric companies that bill on a monthly basis by establishing a date certain for these changes.

This amendment was adopted by the committee on HB 153 last year.

The Department also suggested that to save implementation costs, the bill should not become effective until January 1, 2001.

HB 513 died in the House Finance & Taxation Committee.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Utilities and Communications adopted the amendment recommended by the Department of Revenue which establishes the transition between the old and new tax rates for services billed on a monthly basis, for bills dated on or after August 1, 2000.

VII. SIGNATURES:

COMMITTEE ON UTILITIES AND COMMUNICATIONS:

Prepared by:

Staff Director:

Charles W. Murphy

Patrick L. "Booter" Imhof

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMITTEE ON UTILITIES & COMMUNICATIONS:

Prepared by:

Staff Director:

Patrick L. "Booter" Imhof

Patrick L. "Booter" Imhof