

Bill No. CS for SB 2070

Barcode 863432

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
. .
. .
. .
. .
. .

The Committee on Community Affairs (Bennett) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause, delete

and insert:

Section 1. Subsections (2) through (15) of section 202.11, Florida Statutes, are renumbered as subsections (1) through (14), respectively, subsections (17) through (25) of that section are renumbered as subsections (15) through (23), respectively, and present subsections (1) and (16) of that section are amended to read:

202.11 Definitions.--As used in this chapter:

~~(1) "Actual cost of operating a substitute communications system" includes, but is not limited to, depreciation, interest, maintenance, repair, and other expenses directly attributable to the operation of such system. For purposes of this chapter, the depreciation expense included in actual cost is the depreciation expense claimed for federal income tax purposes. The total amount of any~~

Bill No. CS for SB 2070

Barcode 863432

1 ~~payment required by a lease or rental contract or agreement~~
 2 ~~must be included within the actual cost of operating the~~
 3 ~~substitute communications system.~~

4 ~~(16) "Substitute communications system" means any~~
 5 ~~telephone system, or other system capable of providing~~
 6 ~~communications services, which a person purchases, installs,~~
 7 ~~rents, or leases for his or her own use to provide himself or~~
 8 ~~herself with services used as a substitute for any switched~~
 9 ~~service or dedicated facility by which a dealer of~~
 10 ~~communications services provides a communication path.~~

11 Section 2. Paragraphs (c), (d), and (e) of subsection
 12 (1) of section 202.12, Florida Statutes, are redesignated as
 13 paragraphs (b), (c), and (d), respectively, and present
 14 paragraph (b) of subsection (1) and subsection (2) of that
 15 section are amended to read:

16 202.12 Sales of communications services.--The
 17 Legislature finds that every person who engages in the
 18 business of selling communications services at retail in this
 19 state is exercising a taxable privilege. It is the intent of
 20 the Legislature that the tax imposed by chapter 203 be
 21 administered as provided in this chapter.

22 (1) For the exercise of such privilege, a tax is
 23 levied on each taxable transaction, and the tax is due and
 24 payable as follows:

25 ~~(b) At the rate set forth in paragraph (a) on the~~
 26 ~~actual cost of operating a substitute communications system,~~
 27 ~~to be paid in accordance with s. 202.15. This paragraph does~~
 28 ~~not apply to the use by any dealer of his or her own~~
 29 ~~communications system to conduct a business of providing~~
 30 ~~communications services or any communications system operated~~
 31 ~~by a county, a municipality, the state, or any political~~

Bill No. CS for SB 2070

Barcode 863432

1 ~~subdivision of the state. The gross receipts tax imposed by~~
2 ~~chapter 203 shall be applied to the same costs, and remitted~~
3 ~~with the tax imposed by this paragraph.~~

4 (2) A dealer of taxable communications services shall
5 bill, collect, and remit the taxes on communications services
6 imposed pursuant to chapter 203 and this section at a combined
7 rate that is the sum of the rate of tax on communications
8 services prescribed in chapter 203 and the applicable rate of
9 tax prescribed in this section. ~~Each dealer subject to the tax~~
10 ~~provided in paragraph (1)(b) shall also remit the taxes~~
11 ~~imposed pursuant to chapter 203 and this section on a combined~~
12 ~~basis.~~ However, a dealer shall, in reporting each remittance
13 to the department, identify the portion thereof which consists
14 of taxes remitted pursuant to chapter 203. Return forms
15 prescribed by the department shall facilitate such reporting.

16 Section 3. Paragraph (a) of subsection (1) of section
17 202.16, Florida Statutes, is amended to read:

18 202.16 Payment.--The taxes imposed or administered
19 under this chapter and chapter 203 shall be collected from all
20 dealers of taxable communications services on the sale at
21 retail in this state of communications services taxable under
22 this chapter and chapter 203. The full amount of the taxes on
23 a credit sale, installment sale, or sale made on any kind of
24 deferred payment plan is due at the moment of the transaction
25 in the same manner as a cash sale.

26 (1)(a) ~~Except as otherwise provided in ss.~~
27 ~~202.12(1)(b) and 202.15,~~ The taxes collected under this
28 chapter and chapter 203 shall be paid by the purchaser of the
29 communications service and shall be collected from such person
30 by the dealer of communications services.

31 Section 4. Subsection (6) of section 202.17, Florida

Bill No. CS for SB 2070

Barcode 863432

1 Statutes, is amended to read:

2 202.17 Registration.--

3 (6) In addition to the certificate of registration,
4 the department shall provide to each newly registered dealer
5 an initial resale certificate that is valid for the remainder
6 of the period of issuance. The department shall provide to
7 each active dealer, ~~except persons registered pursuant to s.~~
8 ~~202.15,~~ an annual resale certificate. As used in this section,
9 the term "active dealer" means a person who is registered with
10 the department and who is required to file a return at least
11 once during each applicable reporting period.

12 Section 5. Subsections (1) and (2) of section 202.18,
13 Florida Statutes, are amended to read:

14 202.18 Allocation and disposition of tax
15 proceeds.--The proceeds of the communications services taxes
16 remitted under this chapter shall be treated as follows:

17 (1) The proceeds of the taxes remitted under s.
18 202.12(1)(a) ~~and (b)~~ shall be divided as follows:

19 (a) The portion of such proceeds which constitutes
20 gross receipts taxes, imposed at the rate prescribed in
21 chapter 203, shall be deposited as provided by law and in
22 accordance with s. 9, Art. XII of the State Constitution.

23 (b) The remaining portion shall be distributed
24 according to s. 212.20(6).

25 (2) The proceeds of the taxes remitted under s.
26 202.12(1)(b) ~~(c)~~ shall be divided as follows:

27 (a) The portion of such proceeds which constitutes
28 gross receipts taxes, imposed at the rate prescribed in
29 chapter 203, shall be deposited as provided by law and in
30 accordance with s. 9, Art. XII of the State Constitution.

31 (b) Sixty-three percent of the remainder shall be

Bill No. CS for SB 2070

Barcode 863432

1 allocated to the state and distributed pursuant to s.
 2 212.20(6), except that the proceeds allocated pursuant to s.
 3 212.20(6)(d)3. shall be prorated to the participating counties
 4 in the same proportion as that month's collection of the taxes
 5 and fees imposed pursuant to chapter 212 and paragraph (1)(b).

6 (c)1. During each calendar year, the remaining portion
 7 of such proceeds shall be transferred to the Local Government
 8 Half-cent Sales Tax Clearing Trust Fund and shall be allocated
 9 in the same proportion as the allocation of total receipts of
 10 the half-cent sales tax under s. 218.61 and the emergency
 11 distribution under s. 218.65 in the prior state fiscal year.

12 2. The proportion of the proceeds allocated based on
 13 the emergency distribution under s. 218.65 shall be
 14 distributed pursuant to s. 218.65.

15 3. In each calendar year, the proportion of the
 16 proceeds allocated based on the half-cent sales tax under s.
 17 218.61 shall be allocated to each county in the same
 18 proportion as the county's percentage of total sales tax
 19 allocation for the prior state fiscal year and distributed
 20 pursuant to s. 218.62.

21 4. The department shall distribute the appropriate
 22 amount to each municipality and county each month at the same
 23 time that local communications services taxes are distributed
 24 pursuant to subsection (3).

25 Section 6. Subsections (8) through (12) of section
 26 202.19, Florida Statutes, are renumbered as subsections (7)
 27 through (11), respectively, and present subsection (7) of that
 28 section is amended to read:

29 202.19 Authorization to impose local communications
 30 services tax.--

31 ~~(7) Any tax imposed by a municipality, school board,~~

Bill No. CS for SB 2070

Barcode 863432

1 ~~or county under this section also applies to the actual cost~~
2 ~~of operating a substitute communications system, to be paid in~~
3 ~~accordance with s. 202.15. This subsection does not apply to~~
4 ~~the use by any provider of its own communications system to~~
5 ~~conduct a business of providing communications services or to~~
6 ~~the use of any communications system operated by a county, a~~
7 ~~municipality, the state, or any political subdivision of the~~
8 ~~state.~~

9 Section 7. Paragraph (a) of subsection (1) of section
10 203.01, Florida Statutes, is amended to read:

11 203.01 Tax on gross receipts for utility and
12 communications services.--

13 (1)(a)1. Every person that receives payment for any
14 utility service shall report by the last day of each month to
15 the Department of Revenue, under oath of the secretary or some
16 other officer of such person, the total amount of gross
17 receipts derived from business done within this state, or
18 between points within this state, for the preceding month and,
19 at the same time, shall pay into the State Treasury an amount
20 equal to a percentage of such gross receipts at the rate set
21 forth in paragraph (b). Such collections shall be certified by
22 the Chief Financial Officer upon the request of the State
23 Board of Education.

24 2. A tax is levied on communications services as
25 defined in s. 202.11(2)(~~3~~). Such tax shall be applied to the
26 same services and transactions as are subject to taxation
27 under chapter 202, and to communications services that are
28 subject to the exemption provided in s. 202.125(1). Such tax
29 shall be applied to the sales price of communications services
30 when sold at retail ~~and to the actual cost of operating~~
31 ~~substitute communications systems~~, as such terms are defined

Bill No. CS for SB 2070

Barcode 863432

1 in s. 202.11, shall be due and payable at the same time as the
2 taxes imposed pursuant to chapter 202, and shall be
3 administered and collected pursuant to the provisions of
4 chapter 202.

5 Section 8. Section 624.105, Florida Statutes, is
6 amended to read:

7 624.105 Waiver of customer liability.--Any regulated
8 company as defined in s. 350.111, any electric utility as
9 defined in s. 366.02(2), any utility as defined in s.
10 367.021(12) or s. 367.022(2) and (7), and any provider of
11 communications services as defined in s. 202.11(2)(~~3~~) may
12 charge for and include an optional waiver of liability
13 provision in their customer contracts under which the entity
14 agrees to waive all or a portion of the customer's liability
15 for service from the entity for a defined period in the event
16 of the customer's call to active military service, death,
17 disability, involuntary unemployment, qualification for family
18 leave, or similar qualifying event or condition. Such
19 provisions may not be effective in the customer's contract
20 with the entity unless affirmatively elected by the customer.
21 No such provision shall constitute insurance so long as the
22 provision is a contract between the entity and its customer.

23 Section 9. The retroactive application of the
24 provisions of this act are remedial in nature and shall not be
25 construed to create a right to a refund or to require a refund
26 by any governmental entity of any tax, penalty, or interest
27 remitted to the Department of Revenue on substitute
28 communications systems prior to the effective date of this
29 act.

30 Section 10. Section 202.15, Florida Statutes, is
31 repealed.

Bill No. CS for SB 2070

Barcode 863432

1 Section 11. This act shall take effect upon becoming a
2 law and shall apply retroactively to October 1, 2001.

3
4

5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 Delete everything before the enacting clause,

8

9 and insert:

10

A bill to be entitled

11

An act relating to the tax on substitute
communications systems; amending s. 202.11,
F.S.; deleting certain definitions; amending s.
202.12, F.S.; deleting a provision relating to
the manner in which the tax on gross receipts
for communications services is applied to a
substitute communications system; amending ss.
202.16, 202.17, and 202.18, F.S.; correcting
cross-references; amending s. 202.19, F.S.;
deleting a provision authorizing the imposition
of a local communications services tax on
substitute communications systems; amending s.
203.01, F.S.; deleting a provision authorizing
the imposition of a gross receipts tax on
actual costs of operating substitute
communications systems; amending s. 624.105,
F.S.; correcting a cross-reference; specifying
that retroactive operation is remedial and does
not create any right to or require any refunds;
repealing s. 202.15, F.S., relating to special
rules for users of substitute communications

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Bill No. CS for SB 2070

Barcode 863432

1 systems; providing for retroactive operation;
2 providing an effective date.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31