

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1339 CS Communications Services Tax
SPONSOR(S): Berfield and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2008

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Utilities & Telecommunications Committee	15 Y, 0 N, w/CS	Cater	Holt
2) Finance & Tax Committee	_____	_____	_____
3) Commerce Council	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill reduces the Communications Services Tax (CST) rates, for most communications services. They gradually reduced from their current rate of 6.8 percent to 3.63 percent. For direct-to-home satellite systems, the CST will be gradually reduced from its current rate of 10.8 percent to 7.63 percent. The tax reduction begins on October 1, 2006 for bills rendered on or after that date, and the reductions are as follows:

- January 1, 2007 through December 31, 2007: A reduction of 1.17 percent.
- January 1, 2008 through December 31, 2008: A reduction of 1 percent.
- January 1, 2009: The final reduction of 1 percent.

For fiscal year 2006 -2007, there is an estimated negative fiscal impact of \$108.65 million to state government and a \$4.03 million fiscal impact on local government. Once the tax reductions go completely into effect, for fiscal year 2009-2010, there is an estimated negative fiscal impact of \$463.55 million on state government and a \$22.4 million fiscal impact on local governments.

This act shall take effect October 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes-The bill gradually reduces the Communications Services Tax from its current rate of 6.8 percent to 3.63 percent on January 1, 2009. For direct-to-home satellite services, the reduction is from its current rate of 10.8 percent to 7.63 percent on January 1, 2009.

B. EFFECT OF PROPOSED CHANGES:

Background

In 2000 and 2001 the Legislature passed the "Communications Services Tax (CST) Simplification Law"¹ and was codified in ch. 202, F.S. This was designed to restructure taxes on telecommunications, cable, direct-to-home satellite, and related services.² The CST replaces and consolidates several different state and local taxes with a single tax comprised of two parts: the Florida CST and the local CST.

Old Tax Structure (Prior to October 1, 2001)	New Tax Structure (After October 1, 2001)
Number of Taxes = 7 State Sales Tax Local Option Tax Gross Receipts Tax Public Service Tax Cable Franchise Fee Telecom Franchise Fee Cable and Telecom Permit Fees	Number of Taxes = 2 State Communications Services Tax Local Communications Services Tax

Services subject to this tax include telecommunications, cable, direct-to-home satellite, and related services. This definition encompasses voice, data, audio, video, or any other information or signals, including cable services that are transmitted by any medium.

Some examples of services subject to the tax are:

- Local, long distance, and toll telephone
- Cable television
- Direct-to-home satellite
- Mobile communications, including detailed billing charges
- Private line services
- Pager and beeper
- Telephone charges made by a hotel or motel
- Facsimiles (FAX), when not provided in the course of professional or advertising service
- Telex, telegram, and teletype

¹ Ch. 2000-260 and 2001-140, L.O.F.

² Much of the general information related to the CST is from the Florida Department of Revenue's website on the CST. Florida Department of Revenue <http://www.myflorida.com/dor/taxes/GT-800011.html#comservicetax>

In general, the tax includes a state rate of 6.8 percent plus a gross receipts tax rate of 2.37 percent, for a combined state communications services tax rate of 9.17 percent. However, residential telephone service is only subject to the 2.37 percent gross receipts tax. Each local taxing jurisdiction may levy its own local tax rate on communications services of up to six percent, however these percentages may be higher due to emergency rates and permit fees.

Direct-to-home satellite services are taxed at a 10.8 percent state tax rate and gross receipts tax of 2.37 percent for a total rate of 13.17 percent. This is due to federal law prohibiting the local taxation of direct to home satellite service.

In addition, counties may assess an E911 fee of up to 50 cents per month for telecommunications service.³ For landline telephones, there is a surcharge on customer bills for telephone relay service for the hard of hearing. This charge is capped at 25 cents per access line.⁴ According to the Public Service Commission, the current surcharge is 15 cents per access line.

In state fiscal year 2004-2005, the state collected \$2.21 billion in CST. The breakdown of the receipts is as follows:

- Sales Tax: \$868.3 million (39.2 percent)
- Local Tax: \$816.4 million (36.9 percent)
- Gross Receipts Tax: \$382.5 million (17.3 percent)
- Satellite Tax: \$143.5 million (6.5 percent)

The breakdown of the tax distribution is as follows:

- Local Government: \$947.6 million (43.1 percent)
- General Revenue: \$838.4 million (38.1 percent)
- Public Education Capital Outlay: \$406.5 million (18.5 percent)
- Other: \$5.8 million (0.3 percent)⁵

According to the Tax Foundation⁶, in 2004, Florida had an effective state telecommunications tax rate of 9.76 percent. This was the 10th highest in the United States. If you an effective local communications tax rate of 8.39 percent, Florida has a combined state and local effective telecommunications tax rate of 18.15 percent. This rate is 14th highest in the country.

It should also be noted that according to the tax foundation, Florida ranks 44th nationally in its state and local tax burden. For 1994, this burden was estimated at 9.4 percent of income, compared to 10.2 percent nationally. Florida does not have a state income tax and its 5.5 percent corporate income tax is 6th lowest of the states that collect corporate income tax. However, the states six percent sales tax is higher than the national median of five percent, and is 2004 collection of state sales tax was 3rd highest nationally. The state also has the 42nd highest gas tax and 43rd highest cigarette tax. State property taxes rank 24th highest nationally.

Proposed Changes

Section 202.11(2), F.S., defines “communications services” rather broadly to encompass existing technologies and ones that may later be devised. It includes services such as cable television, local and long distance telephone service, wireless telephone service, paging service, and satellite television service.

³ S. 365.171(8), F.S.

⁴ S. 427.704, F.S.

⁵ Florida Department of Revenue presentation to the Florida House of Representatives Utilities & Telecommunications Committee, October 18, 2005.

⁶ Information from the Tax Foundation may be found at: <http://www.taxfoundation.org/>

The bill amends s. 202.12(a), F.S., to remove the general CST tax rates of 6.8 percent, and the 10.8 percent CST rate for direct-to-home satellite service.

The bill creates s. 202.12(1)(e), F.S., to provide that the state CST imposed on communications services that originate and/or terminate in Florida are at the following rates:

- 6.8 percent for bills dated on or after October 1, 2001 through December 31, 2006;
- 5.63 percent for bill dated on or after January 1, 2007 through December 31, 2007;
- 4.63 percent for bills rendered on or after January 1, 2008 through December 31, 2008;
- 3.63 percent for bill rendered on or after January 1, 2009.

As of October 1, 2008, the state CST of 3.63 percent and the 2.37 percent gross receipts tax on communications services will equal the 6 percent state sales tax.

The bill creates s. 202.12(1)(f), F.S., to provide that the CST imposed on direct-to-home satellite services received in Florida are at the following rates:

- 10.8 percent for bills dated on or after October 1, 2001 through December 31, 2006;
- 9.63 percent for bill dated on or after January 1, 2007 through December 31, 2007;
- 8.63 percent for bills rendered on or after January 1, 2008 through December 31, 2008;
- 7.63 percent for bill rendered on or after January 1, 2009.

This act shall take effect on October 1, 2006.

C. SECTION DIRECTORY:

Section 1 Amends s. 202.12(1), F.S., relating to the sales of communications services.

Section 2 This act shall take effect October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On March 7, 2006, the Revenue Estimating Conference issued an estimate of the revenue impact, based on an October 1, effective dates of the rate changes. Below is an estimate fiscal impact, with the Revenue Estimating Conference's estimate being to reflect a January 1 effective date of the rate changes. The estimated reduction in state revenues, in millions, is as follows:

	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	Total
Communications Services Tax	\$76.36	\$217.58	\$347.33	\$425.4	\$438.5	\$1,501.15
Direct-to-Home Satellite	\$5.14	\$16.52	\$29.34	\$38.15	\$41.09	\$130.24
Total	\$81.49	\$234.09	\$376.67	\$463.55	\$479.59	\$1,635.38

2. Expenditures:

The Department of Revenue will incur some expenditure in notifying communications services dealers of the annual change in the CST.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Since under federal law, direct-to-home satellite service cannot be subject to local taxation, thirty-seven percent of the state CST on direct-to-home satellite service is distributed to counties. The estimated total reduction in revenue to the counties, in millions, as a result in the change in CST is as follows:

2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	Total
\$3.02	\$9.69	\$17.24	\$22.40	\$24.13	\$76.48

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Consumers will see a reduction in the CST paid. Communications services dealers will incur some administrative costs associated with implementing the bill's provisions.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not contain an unfunded mandate to municipalities or counties. While counties will see a reduction in state tax revenue, the bill does not reduce the percent of tax shared with local government.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 30, 2006, the Utilities & Telecommunications Committee adopted an amendment, which did the following:

- Changed the term "rendered on" to "dated" to clarify that the tax rates applied to bills dated on or after a date certain.
- Changed the effective date of the rate changes from October 1 to January 1 to conform to the statutory date of other CST rate changes.