

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Governmental Operations Committee

BILL: SB 1452

INTRODUCER: Communications & Public Utilities Committee

SUBJECT: OGSR/Public Service Tax

DATE: March 15, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stuart	Caldwell	CU	Favorable
2.	Rhea	Wilson	GO	Favorable
3.			RC	
4.				
5.				
6.				

I. Summary:

The bill repeals section 36, of chapter 2001-140, Laws of Florida, which grants the authority to audit records to ensure proper payment of the Public Service Tax. The bill also repeals section 166.236, Florida Statutes, which provides an exemption for proprietary and confidential business information collected during those audits. Records made before the date of a repeal of an exempt under the Open Government Sunset Review Act may not be made public unless otherwise provided by law pursuant to s. 119.15(7), F.S.

II. Present Situation:

Prior to 2000, municipalities assessed taxes on telecommunications companies pursuant to the Public Service Tax statute. To ensure proper payment of the tax, the statute also authorized the municipalities to audit relevant company records. To protect confidential business information, the statute contained a public record exemption for any proprietary and confidential business information received during the course of the audit.

In 2000, the Communication Service Tax (CST) was created and the Public Service Tax on telecommunications was subsumed into the CST. The CST statutes contain their own audit authority and public records exemption provisions.

When this shift in statutory authority occurred, all the Public Service Tax audits had not been conducted. These audits were, of necessity, conducted after the tax payments were received. Therefore, audits to ensure that taxes paid in years immediately prior to 2000 were accurate had not yet been conducted. To provide a transition from one tax to the other, temporary authority for audits and temporary public records protection were enacted, s. 36, ch. 2001-140, Laws of

Florida, and s. 166.236, F.S., respectively. The transition period is now over, and representatives of municipalities and telecommunication service providers confirmed that these sections are no longer necessary.

III. Effect of Proposed Changes:

The bill repeals s. 36, ch. 2001-140, Laws of Florida, which grants the authority to audit telecommunication service providers' records to ensure compliance with the Public Service Tax, and repeals s. 166.236, F.S., which provides an exemption for proprietary and confidential business information collected during Public Service Tax audits.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Records made before the date of a repeal of an exempt under the Open Government Sunset Review Act may not be made public unless otherwise provided by law pursuant to s. 119.15(7), F.S. Further, it has been held by the courts that statutes eliminating confidentiality apply prospectively.¹

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

¹ 697 So.2d 970 (Fla. 2nd DCA 1997); see also, AGO 95-19.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

viii. Summary of Amendments:

None.

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