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 Budget Subcommittee on Finance and Tax

BILL: HB 5703

INTRODUCER: Finance and Tax Committee; Precourt

SUBJECT: Tax on Communications and Utility Services

DATE: February 28, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cote	Diez-Arguelles	BFT	**Favorable**
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

HB 5703 shifts state revenue collections from the General Revenue fund and local governments to the Public Education Capital Outlay and Debt Service Trust Fund (PECO).

This bill is effective July 1, 2012.

This bill substantially amends sections 202.12 and 203.01 of the Florida Statutes.

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 6.65 percent, except for direct-to-home satellite service, which is taxed at a 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 is distributed by the same formula as the state sales tax, as provided by s. 212.20(6), F.S., except that the direct-to-home satellite revenue is distributed pursuant to s. 202.18(2), F.S.[1] Approximately 10.8 percent is distributed to local governments through county and municipal revenue sharing, the Local Government Half-cent Sales Tax Clearing Trust Fund and the distribution to counties of $29,915,500 that was previously funded from pari-mutuel tax revenues. Smaller amounts are distributed to qualified

[1] Section 202.18(2), F.S., provides that 63 percent of the direct-to-home satellite revenue is distributed by the same formula as the state sales tax with the remaining 37 percent distributed to the Local Government Half-Cent Clearing Trust Fund.

counties for emergency distributions, selected sports facilities, and to the Public Employee Relations Trust Fund. The remainder of taxes remitted goes into the General Revenue Fund.

The tax on gross receipts for communications services is levied under ch. 203, F.S., at a base rate of 2.37 percent plus an additional 0.15 percent, for a total of 2.52 percent, on the sale of communications services. The tax is administered and collected pursuant to the provisions of ch. 202, F.S., but the exemption for communications services sold to residential households does not apply to the gross receipts tax levied at the base rate. All revenue received pursuant to this tax goes to the Public Education Capital Outlay and Debt Service ("PECO") Trust Fund. The use of such funds 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.

In 2010 the legislature reduced the communications services tax rate to 6.65 percent from 6.8 percent and created the 0.15 additional gross receipts tax on communications services to divert money from the communications services tax distribution to the PECO Trust Fund[2].

The PECO Estimating Conference met on January 13, 2012 and forecasted that by the end of FY 2011-12, undispersed, previously approved appropriations would exceed available cash in the PECO Trust Fund by $275.5 million. For FY 2012-13, the conference reduced the forecast of the maximum amount available for appropriation to zero. This estimate assumed $250 million in previously authorized bonds would not be issued, and receipts into the PECO Trust Fund that were not needed to pay debt would be used to pay for previously appropriated projects, including those for which bonds had been scheduled but not issued. As a result, the amount of undispersed, pre-existing appropriations that exceeded cash dropped to $178.8 million by the end of FY 2012-13.

III. Effect of Proposed Changes:

The bill reduces the state communications services tax rate to 6.2 percent from 6.65 percent and increases the additional gross receipts tax rate on communication services from 0.15 percent to 0.6 percent. The combined tax rate on communication services will not change, since the existing residential exemption for the state sales tax applies to the increased percentage of the gross receipts tax.

[2] 2010-149, L.O.F.

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:

The Revenue Estimating Conference estimates that the bill will decrease general revenue by $39.3 million and local government revenue by $5.0 million in FY 2012-13 with a $47.1 million recurring impact to general revenue and a $6.0 million recurring impact to local governments. Revenues to the Public Education Capital Outlay and Debt Service Trust Fund (PECO) will be increased by $44.3 million in FY 2012-13, with a $53.1 million recurring impact.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The increased tax revenues to the PECO fund will increase bonding capacity, resulting in an increase in the maximum available appropriations from the fund to approximately $383.8 million in FY 2012-13, compared to zero available appropriations available under the current official PECO forecast.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.