

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 605 - SB 1458

March 5, 2019

SUMMARY OF ORIGINAL BILL: Requires the study and investigation of tax laws in other states required of the Commissioner of the Department of Revenue, pursuant to Tenn. Code Ann. § 67-1-103, be “thorough,” rather than “careful.”

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004662): Deletes all language after the enacting clause. Exempts the following from state and local sales and use tax: (a) fiber-optic cable that is used or will be used to permit one or more computers or other electronic devices to access information, including, but not limited to, fiber-optic cable that is used or will be used to permit internet access, when such fiber-optic cable will become or has become attached to a utility pole, building, or other structure, or installed underground, and (b) leasing or providing access to fiber-optic cable that is used or will be used to permit one or more computers or other electronic devices to access information, including, but not limited to, fiber-optic cable that is used or will be used to permit internet access.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Decrease State Revenue – Exceeds \$4,529,100

Decrease Local Revenue – Exceeds \$1,617,500

Other Fiscal Impact – Secondary economic impacts may occur as a result of this legislation. Due to several unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

Assumptions for the bill as amended:

- According to information provided by the Department of Revenue (DOR), state and local sales and use tax collected from the sale, installation, and leasing of fiber-optic cable is not specified on returns.

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- It is assumed that any exemption from state and local sales tax that would otherwise be derived from the installation of fiber-optic cable is applicable only to such fiber optic cable installed on or after the effective date of July 1, 2019.
- Any exemption from state and local sales tax that would otherwise be derived from the leasing of fiber-optic cable is applicable only to fiber optic cable that will be leased on or after the effective date of July 1, 2019.
- As a result, determining the extent of fiber optic cable that will be installed and leased on or after July 1, 2019, is unknown.
- According to DOR, the Department identified through information, from a number of audits of multiple taxpayers dating back several years, that the minimum annual sales tax collections derived from fiber-optic cable installation and leasing is approximately \$4,529,100 per year.
- Fiscal Review Committee staff does not have access to this taxpayer information due to tax confidentiality law and cannot verify the accuracy of this number.
- It is assumed that the annual collection numbers provided by DOR are representative of future collections that would be collected under current law.
- The current state sales tax rate is 7.0 percent.
- Total taxable sales that would become exempt under this legislation are estimated to exceed \$64,701,429 ($\$4,529,100 / 7.0\%$).
- The average local option sales tax rate is estimated to be 2.5 percent.
- The minimum annual collection of local option sales tax revenue is estimated to be \$1,617,536 ($\$64,701,429 \times 2.5\%$).
- The recurring decrease in state sales tax revenue, and the recurring decrease in local sales tax revenue, is estimated to exceed \$4,529,100 and \$1,617,536, respectively.
- Such tax savings allowed to fiber optic cable entities under this legislation could result in additional profits for companies engaging in the fiber optic cable business, which may generate additional tax revenue for the state; or it could result in additional investment and expansion of fiber optic networks across the state which would not occur in the absence of this legislation, which may result in additional forgone state and local tax revenue. Any such impacts are considered secondary economic impacts that are dependent upon several unknown factors which cannot be reasonably quantified.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/jdb