

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 605 - SB 1458

April 30, 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 (009020): Deletes all language after the caption.

Exempts from state and local sales and use tax fiber-optic cable after it has been attached to a utility pole, building, or other structure or installed underground.

Deletes the current credit against franchise and excise tax liability equal to six percent of the purchase price of qualified broadband internet access equipment.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Decrease State Revenue – Net Impact – Exceeds \$2,475,100

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:

- Public Chapter 228 of the Public Acts of 2017, entitled the *Tennessee Broadband Accessibility Act*, created a credit against franchise and excise tax liability equal to six percent of the purchase price of qualified broadband internet access equipment.
- The current cap on such credits provided to all taxpayers is \$5,000,000.

HB 605 - SB 1458

- Based on information provided by the Department of Revenue (DOR), in the first year, credits against franchise and excise tax liability totaled \$2,053,979.
- This legislation removes such exemption and will result in a recurring increase in state revenue of \$2,053,979.
- Secondary economic impacts may occur as a result of this legislation due to a decrease in the amount of investments companies may make in Tennessee. Due to multiple unknown factors, precise fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.
- According to information provided by the DOR, state and local sales and use tax collected from the sale, installation, and leasing of fiber-optic cable is not specified on returns.
- 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.
- The net recurring decrease in state revenue as a result of this legislation is estimated to be \$2,475,121 ($\$4,529,100 - \$2,053,979$).

CERTIFICATION:

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

Handwritten signature of Krista Lee Carsner in black ink.

Krista Lee Carsner, Executive Director

/jdb