

HOUSE BILL 563

Q7

2lr1307
CF 2lr1610

By: **Delegates Hixson, Barve, Cardin, Frick, Howard, Ivey, Kaiser, Luedtke,
A. Miller, Rosenberg, Ross, Stukes, and Summers**

Introduced and read first time: February 3, 2012

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Telecommunications Taxes – Reform Commission and Moratorium**

3 FOR the purpose of establishing the Telecommunications Tax Reform Commission;
4 providing for the composition, chair, and staffing of the Commission; prohibiting
5 a member of the Commission from receiving certain compensation, but
6 authorizing the reimbursement of certain expenses; requiring the Commission
7 to assess the feasibility and fiscal implications of a competitively neutral
8 telecommunications tax and fee system that eliminates the disparate treatment
9 of similar telecommunications service providers; requiring the Commission to
10 examine certain taxes and fees in conducting its assessment; requiring the
11 Comptroller and the State Department of Assessments and Taxation to collect
12 data from the State, local governments, and telecommunications service
13 providers concerning revenue collected from current telecommunications taxes
14 and fees; requiring that the data collected be provided to the Commission by a
15 certain date; prohibiting certain data collected from telecommunications service
16 providers from being publicly disclosed unless it is aggregated in a certain
17 manner; requiring a State or local government agency or a telecommunications
18 service provider to cooperate reasonably with data collection efforts under this
19 Act; authorizing the Comptroller or the State Department of Assessments and
20 Taxation to subpoena a State or local government agency or a
21 telecommunications service provider that fails to cooperate reasonably with
22 data collection under this Act; authorizing a petition to a circuit court to compel
23 compliance with a subpoena; requiring the Commission to report its findings
24 and recommendations to the Governor and the General Assembly on or before a
25 certain date; prohibiting the State or a county government from imposing a tax
26 or fee on a telecommunications service that is not in effect on a certain date
27 during a certain period; prohibiting the State or a county government from
28 increasing a tax or fee on a telecommunications service above the amount in
29 effect on a certain date during a certain period; defining a certain term;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 providing for the termination of this Act; and generally relating to the
2 Telecommunications Tax Reform Commission.

3 Preamble

4 WHEREAS, Competition and changes in technology have expanded the types of
5 telecommunications services available to businesses and consumers in Maryland; and

6 WHEREAS, Most State and local taxes and fees on telecommunications services
7 were adopted before these changes in technology and the emergence of competition;
8 and

9 WHEREAS, Current tax and fee structures may no longer be suitable for the
10 current telecommunications marketplace; and

11 WHEREAS, Taxes and fees on telecommunications services should treat
12 providers and consumers the same regardless of the technology or platform used to
13 provide the services; and

14 WHEREAS, Tax policy should encourage investment in telecommunications
15 networks because telecommunications services are vital to the State's economic growth
16 and competitiveness; and

17 WHEREAS, The burden of collecting and remitting taxes and fees on
18 telecommunications services is borne by providers of the services, and service
19 providers should participate in any discussions about restructuring
20 telecommunications taxes and fees; and

21 WHEREAS, The State and the counties receive revenues from
22 telecommunications taxes and fees and should participate in any discussions about
23 restructuring telecommunications taxes and fees; and

24 WHEREAS, More information about the impact of telecommunications tax and
25 fee restructuring on consumers and governments is necessary so that the General
26 Assembly may consider telecommunications tax and fee restructuring legislation
27 during the 2013 session of the General Assembly; and

28 WHEREAS, It is the intent of the General Assembly that all parties with an
29 interest in telecommunications taxes and fees in Maryland work together to develop
30 recommendations on restructuring telecommunications taxes and fees; and

31 WHEREAS, A Commission of qualified individuals representing the interests
32 most affected by telecommunications tax and fee restructuring should study the issues
33 and submit a report and any proposed legislation to the General Assembly for
34 consideration during the 2013 session of the General Assembly; now, therefore,

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That:

3 (a) There is a Telecommunications Tax Reform Commission.

4 (b) The Commission consists of the following members:

5 (1) two members of the Senate of Maryland, appointed by the
6 President of the Senate;

7 (2) two members of the House of Delegates, appointed by the Speaker
8 of the House;

9 (3) the Comptroller, or the Comptroller's designee;

10 (4) the Director of the State Department of Assessments and Taxation,
11 or the Director's designee; and

12 (5) the following members appointed by the Governor:

13 (i) two representatives of the Maryland Association of Counties;
14 and

15 (ii) one representative of each of the following
16 telecommunications carriers:

17 1. local exchange;

18 2. interexchange;

19 3. cable television;

20 4. wireless; and

21 5. satellite.

22 (c) The Governor shall designate the chair of the Commission.

23 (d) The Comptroller and the State Department of Assessments and Taxation
24 shall provide staff for the Commission.

25 (e) A member of the Commission:

26 (1) may not receive compensation as a member of the Commission; but

27 (2) is entitled to reimbursement for expenses under the Standard
28 State Travel Regulations, as provided in the State budget.

1 (f) The Commission shall assess the feasibility and fiscal implications for the
2 State and local governments of a modernized, competitively neutral
3 telecommunications tax and fee system that encourages investment in broadband
4 networks and eliminates the disparate treatment of similar telecommunications
5 service providers.

6 (g) In conducting the assessment required under subsection (f) of this
7 section, the Commission shall examine the following taxes and fees as they relate to
8 consumers and providers of telecommunications services:

9 (1) State and local property taxes;

10 (2) the public service company franchise tax imposed under Title 8,
11 Subtitle 4 of the Tax – General Article;

12 (3) sales and use taxes;

13 (4) the corporate income tax imposed under Title 10 of the Tax –
14 General Article;

15 (5) local telecommunications taxes;

16 (6) local cable television franchise fees and public, education, and
17 government access channel fees; and

18 (7) any other telecommunications tax or fee that the Commission
19 determines is relevant to the assessment.

20 (h) (1) The Comptroller and the State Department of Assessments and
21 Taxation shall collect data from the State and local governments to determine the
22 amount of revenue collected by the State and each county government from all current
23 taxes and fees on telecommunications services during fiscal year 2012.

24 (2) The Comptroller and the State Department of Assessments and
25 Taxation shall collect data from telecommunications service providers to determine
26 the amount of revenue remitted to the State and each county government by each
27 telecommunications service provider in taxes and fees on telecommunications services
28 during fiscal year 2011.

29 (3) Subject to paragraph (4) of this subsection, the Comptroller and
30 the State Department of Assessments and Taxation shall provide the information
31 required to be collected under paragraphs (1) and (2) of this subsection to the
32 Commission promptly on receipt of the information or by September 15, 2012,
33 whichever is earlier.

1 (4) Data collected from a telecommunications service provider under
2 paragraph (2) of this subsection may not be disclosed to the public unless it is
3 aggregated so that market share and other sensitive market information for individual
4 providers cannot be determined.

5 (5) (i) State government agencies, county governments, and
6 telecommunications service providers shall cooperate reasonably with the data
7 collection efforts undertaken by the Comptroller and the State Department of
8 Assessments and Taxation under paragraphs (1) and (2) of this subsection.

9 (ii) The Comptroller or the State Department of Assessments
10 and Taxation may subpoena a State or local government agency or
11 telecommunications service provider that fails to cooperate reasonably with data
12 collection efforts undertaken under paragraphs (1) and (2) of this subsection.

13 (iii) If a person fails to comply with a subpoena issued under
14 subparagraph (ii) of this paragraph, the Comptroller or the State Department of
15 Assessments and Taxation may petition a circuit court to order compliance with the
16 subpoena.

17 (i) On or before January 1, 2013, the Commission shall report its findings
18 and recommendations to the Governor and, in accordance with § 2-1246 of the State
19 Government Article, the General Assembly.

20 (j) (1) In this subsection, “telecommunications service” means:

21 (i) local exchange, interexchange, and wireless telephone
22 service;

23 (ii) cable television service; or

24 (iii) satellite television service.

25 (2) Notwithstanding any other law, the State or a county government
26 may not:

27 (i) impose a tax or fee on telecommunications service providers
28 or consumers of telecommunications services during the period from June 1, 2012,
29 until June 30, 2013, both inclusive, unless the tax or fee is in effect on May 31, 2012;
30 or

31 (ii) increase the rate or amount of any tax or fee on
32 telecommunications service providers or consumers of telecommunications services
33 above the rate or amount in effect on May 31, 2012, during the period from June 1,
34 2012, until June 30, 2013, both inclusive.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2012. It shall remain effective for a period of 1 year and 1 month and, at the
3 end of June 30, 2013, with no further action required by the General Assembly, this
4 Act shall be abrogated and of no further force and effect.