

Chapter 262

(House Bill 563)

AN ACT concerning

~~Telecommunications~~ Communications Taxes – Reform Commission ~~and~~ ~~Moratorium~~

FOR the purpose of establishing the ~~Telecommunications~~ Communications Tax Reform Commission; providing for the composition, chair, and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Commission to assess the feasibility and fiscal implications of a competitively neutral ~~telecommunications~~ communications tax and fee system that eliminates the disparate treatment of similar ~~telecommunications~~ communications service providers; requiring the Commission to examine certain taxes and fees in conducting its assessment; requiring the Comptroller and the State Department of Assessments and Taxation to collect data from the State, local governments, and ~~telecommunications~~ communications service providers concerning revenue collected from current ~~telecommunications~~ communications taxes and fees; requiring that the data collected be provided to the Commission by a certain date; prohibiting certain data collected from ~~telecommunications~~ communications service providers from being publicly disclosed unless it is aggregated in a certain manner; requiring a State or local government agency or a ~~telecommunications~~ communications service provider to cooperate reasonably with data collection efforts under this Act; authorizing the Comptroller or the State Department of Assessments and Taxation to subpoena a State or local government agency or a ~~telecommunications~~ communications service provider that fails to cooperate reasonably with data collection under this Act; authorizing a petition to a circuit court to compel compliance with a subpoena; requiring the Commission to report its findings and recommendations to the Governor and the General Assembly on or before ~~a certain date~~ certain dates; ~~prohibiting the State or a county government from imposing a tax or fee on a telecommunications service that is not in effect on a certain date during a certain period; prohibiting the State or a county government from increasing a tax or fee on a telecommunications service above the amount in effect on a certain date during a certain period; defining a certain term;~~ providing for the termination of this Act; and generally relating to the ~~Telecommunications~~ Communications Tax Reform Commission.

Preamble

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

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

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

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

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

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

WHEREAS, The State ~~and~~, the counties, ~~and~~ the municipal corporations receive revenues from ~~telecommunications~~ communications taxes and fees and should participate in any discussions about restructuring ~~telecommunications~~ communications taxes and fees; and

WHEREAS, More information about the impact of ~~telecommunications~~ communications tax and fee restructuring on consumers and governments is necessary so that the General Assembly may consider ~~telecommunications~~ communications tax and fee restructuring legislation during the ~~2013~~ 2014 session of the General Assembly; and

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

WHEREAS, A Commission of qualified individuals representing the interests most affected by ~~telecommunications~~ communications tax and fee restructuring should study the issues and submit a report and any proposed legislation to the General Assembly for consideration during the ~~2013~~ 2014 session of the General Assembly; now, therefore,

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

(a) There is a ~~Telecommunications~~ Communications Tax Reform Commission.

(b) The Commission consists of the following members:

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

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

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

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

(5) the following members appointed by the Governor:

(i) ~~two~~ four representatives of the Maryland Association of Counties, representing different geographic regions of the State; ~~and~~

(ii) two representatives of the Maryland Municipal League, one representing a municipality with a relatively small population and one representing a municipality with a relatively large population;

(iii) two citizens of the State who are consumers of communications services;

(iv) one representative of a labor union representing workers in the communications industry;

(v) one representative of the Tech Council of Maryland;

(vi) one representative of the Maryland Chamber of Commerce;
and

~~(ii)~~ (vii) one representative of each of the following telecommunications communications carriers:

1. local exchange;

2. interexchange;

3. cable television;
4. wireless; and
5. satellite.

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

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

(e) A member of the Commission:

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

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

(f) The Commission shall assess the:

(1) feasibility and fiscal implications for the State and local governments of a modernized, competitively neutral ~~telecommunications~~ communications tax and fee system that ~~encourages investment in broadband networks and~~ eliminates the disparate treatment of similar ~~telecommunications~~ communications service providers; and

(2) efficacy of tax and other incentives to encourage investment in broadband networks and emerging technologies.

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

(1) State and local property taxes;

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

(3) sales and use taxes;

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

(5) local ~~telecommunications~~ communications taxes, and fees; and

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

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

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

(2) The Comptroller and the State Department of Assessments and Taxation shall collect data from ~~telecommunications~~ communications service providers to determine the amount of revenue remitted to the State and ~~each county government~~ local governments by each ~~telecommunications~~ communications service provider in relevant taxes and fees on ~~telecommunications~~ communications services during fiscal year ~~2011~~ 2012.

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

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

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

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

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

(i) (1) On or before December 31, 2012, the Commission shall make an interim report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

(2) On or before ~~January 1, 2013~~ June 30, 2013, the Commission shall ~~report~~ make a final report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

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

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

(ii) ~~cable television service; or~~

(iii) ~~satellite television service.~~

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

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

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

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

Approved by the Governor, May 2, 2012.