



# 2017 Legislative Issue Briefs



## Communications Services Tax and Local Business Tax Protection

### Priority Statement:

The Florida League of Cities SUPPORTS legislation that protects general revenues collected from the communications services tax and the local business tax. These revenues are essential to providing municipal services, such as public safety, constructing and maintaining transportation infrastructure and providing for public parks and open spaces. A diversified revenue base is necessary for the fiscal stability of local governments and improves their ability to serve citizens and businesses.

### Talking Points:

- These revenues are used to assist in funding essential municipal services to citizens and businesses such as zoning, permitting, code enforcement, and police and fire services.
- Additionally, many cities have pledged these revenues for debt to fund projects, that benefit businesses and citizens.
- Reducing this source of general revenue would require municipalities to increase taxes, fees and millage, or cut services to make up for the financial loss.
- The Florida League of Cities OPPOSES SB 330 (Steube) and HB 487 (Renner) prohibit cities and counties from levying the local business tax if the tax was not adopted by January 1, 2017.
- The Florida League of Cities SUPPORTS SB 378 (Flores), which reduces the state CST rate by 2 percent and includes a hold-harmless provision to offset the reduction in revenues the state shares with local governments.

### Background:

#### *Communications Services Tax*

In 2000, the Florida Legislature restructured taxes and fees on telecommunications, cable, direct-to-home satellite and related services under the Communication Services Simplifications Act. This act replaced and consolidated seven different state and local taxes and fees into a single tax that has two centrally administered parts, the state and the local communications services tax (CST). The local CST is one of the main sources of locally levied general revenue for municipalities, providing them with more than \$421 million annually. Counties collect nearly \$234 million a year. The State of Florida collects approximately \$600 million, including direct-to-home satellite, and shares a portion of those revenues with cities through the Municipal Revenue Sharing Program and Local Half-Cent Sales Tax Program. These revenues may be used for any public purpose, including pledging the revenues to secure bonds.

The CST applies to telecommunications, video, direct-to-home satellite and related services. The definition of communications services encompasses voice, data, audio, video, or any other information or signals transmitted by any medium. Examples of services subject to the tax include local, long distance and toll telephones; voice over Internet protocol telephones; video services; video streaming; direct-to-home satellite; mobile communications; private line services; pagers and beepers; telephone charges made at a hotel or motel; facsimiles; and telex, telegram and teletype. The tax is imposed on retail sales of communications services that originate and terminate in Florida or are billed to an address within the state.

The Florida CST includes both a state tax and a gross receipts tax. Communications services, except direct-to-home satellite service, are subject to the state tax of 4.92 percent and the gross receipts tax of 2.52 percent. Direct-to-home satellite service is subject to the state tax of 9.07 percent and the gross receipts tax of 2.37 percent.

A county or municipality may authorize the levy of a local CST. The local tax rates vary depending on the type of local government. For municipalities that have not chosen to levy permit fees, the tax may be levied at a rate of up to 5.1 percent. For municipalities that have chosen to levy permit fees, the tax may be levied at a rate of up to 4.98 percent. In addition to the local CST, any local option sales tax that a county or school board has levied is imposed as a local CST.

Over the past few years, the economy, legislation and changes in technology have eroded the tax base for the CST. Additionally, there has been a movement by the Florida Legislature to reduce the total tax rate, both on the state and local CST.

#### *Local Business Tax*

Currently, a municipality may impose a local business tax for the privilege of engaging in or managing a business, profession or occupation within its jurisdiction. The amount of the tax, as well as the occupations and businesses on which the tax is imposed, is determined by the local government. Local business tax revenues collected by municipalities are used to assist funding of services critical to business, such as zoning, permitting, code enforcement, and police and fire. Local governments may also use business tax revenues to help fund other vital services, such as economic development programs that present a direct benefit to businesses through the marketing of local areas. Many municipalities use the business tax as general revenue funds and have pledged these revenues to secure debt. Collections for municipal local business tax revenues are approximately \$140 million annually.

Reducing either of these vital sources of general revenue would require municipalities to increase taxes, fees and millage or cut services to make up for this financial loss.

#### **Status:**

##### *Communications Services Tax*

**SB 378** (Flores) reduces the state portion of the communications services tax (CST) rates by 2.0 percent, reducing the general state rate from 4.92 to 2.92 percent and the rate on direct-to-home satellite from 9.07 to 7.07 percent. This bill does not reduce the rate or anticipated revenues collected from the local CST that is levied by cities and counties. The bill includes a “hold harmless” provision that protects local governments by modifying the revenue sharing distribution formulas to offset the negative recurring impact caused by the reduction in revenues shared with local governments. The bill also repeals a tax credit that insurance companies can use to reduce their

insurance premium tax liability. SB378 is in the Senate Appropriations Subcommittee on Finance and Tax. The Florida League of Cities supports this bill.

**SB 1636** (Artiles) and **HB 1377** (Miller, M.) define “internet video service” and exclude this type of service from the definition of “communications services” and therefore from the communications services tax. Under the bills, “internet video service” means a subscription video programming service received by the end user customer by means of a wired or wireless internet connection. Additionally, the bills prohibit a government from levying or collecting any tax, charge, fee or other imposition on the purchase of any internet video service. These bills have not been evaluated for a fiscal impact. SB 1636 unanimously passed the Senate Communications, Energy, and Public Utilities Committee on March 28 and now heads to the Senate Appropriations Subcommittee on Finance and Tax. HB 1377 is in the House Energy and Utilities Subcommittee

In June 2015, the First District Court of Appeal overturned a lower court’s favorable ruling regarding the constitutionality of the direct-to-home satellite rate. The original lawsuit, from May 2005, alleged that the direct-to-home satellite rate was unconstitutional because by imposing the CST at a rate of approximately 60 percent higher on out-of-state satellite TV companies versus in-state cable companies, the tax unfairly discriminated against out-of-state companies and, therefore, violated both the Commerce Clause and the Equal Protection Clause of the U.S. Constitution. The Department of Revenue appealed this decision and the Florida Supreme Court heard oral arguments in April 2016. The Florida Supreme Court has not yet issued an opinion on this case so the impact on the structure of the CST is unknown.

#### *Local Business Tax*

**CS/SB 330** (Steube) and **CS/HB 487** (Renner) were amended to remove the \$25 cap on the local business tax. The bills create new exemptions, as of July 1, 2017, from the local business tax for veterans, a surviving spouse of a veteran, the spouses of active duty military, an individual who is receiving public assistance or an individual whose household income is no more than 130 percent of the federal poverty level. CS/HB 487 also prohibits cities and counties from levying the local business tax if the tax was not adopted by January 1, 2017. CS/SB 330 passed the Senate Appropriations Subcommittee on Finance and Tax and is now in the Senate Appropriations Committee. CS/HB 487 unanimously passed the House Ways and Means Committee and is now in the House Government Accountability Committee.

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