



## Senate

General Assembly

**File No. 190**

February Session, 2002

Substitute Senate Bill No. 474

*Senate, March 27, 2002*

The Committee on Planning and Development reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING TAX AUDITS OF CERTAIN TELECOMMUNICATIONS SERVICES COMPANIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2002, and applicable to assessment*  
2 *years commencing on or after October 1, 2002*) (a) Beginning with the  
3 assessment year commencing October 1, 2002, and quadrennially  
4 thereafter, the assessor of any town or city shall perform an audit or  
5 require a designee of the assessor to perform an audit of any personal  
6 property required to be reported pursuant to section 12-80a of the  
7 general statutes, for any assessment year except that the assessor may  
8 conduct an audit one year earlier if the year for the audit is a year in  
9 which a revaluation is to be conducted under section 12-62 of the  
10 general statutes. The assessor shall give notice, in writing, to the  
11 owner, custodian or other person having knowledge of any such  
12 property or the valuation of such property, of the time and place of  
13 such audit with respect to such property. Such notice shall be placed in

14 the hands of such person or left at such person's usual place of  
15 business or shall be sent to such person by registered or certified mail  
16 at the last-known place of business. Such notice shall direct the person  
17 named therein to appear before the assessor, or before a designee of  
18 said assessor, with books of account, papers, documents and other  
19 records for examination under oath relative to any such property or  
20 the valuation of such property. The property owner shall provide an  
21 inventory of personal property of another taxpayer that is taxed under  
22 section 12-80a of the general statutes, and located in the offices of the  
23 property owner upon request of the assessor. The methodology used  
24 to determine the assessment of such property to which such audit or  
25 audits relate shall be the methodology set forth in section 12-80a of the  
26 general statutes.

27 (b) Upon completing an audit of property assessed in accordance  
28 with this section, the assessor shall send written notification to the  
29 property owner. Such notice shall identify any property the assessor  
30 believes (1) was erroneously included in the report the owner  
31 submitted under section 12-80a of the general statutes, (2) was not  
32 included in said report, or (3) was included in said report but was not  
33 valued in the manner required by section 12-80a, of the general  
34 statutes. Such notice shall be sent not later than thirty business days  
35 after such audit is completed. A copy of the notice shall be sent to the  
36 Secretary of the Office of Policy and Management.

37 (c) With respect to property discovered to have been included on a  
38 report in error, the Secretary of the Office of Policy and Management  
39 shall determine the amount of the tax represented by such property  
40 and shall deduct such amount from the tax next certified by said  
41 secretary, under section 12-80a of the general statutes, as payable to the  
42 municipality to which such amount was paid in error. With respect to  
43 any other property, the owner shall submit to the secretary, not later  
44 than thirty business days after the date of the assessor's notice, an  
45 amended report regarding such property or a written notice refuting  
46 the findings of the assessor. If the owner submits a written notice  
47 refuting such findings, the provisions of this subsection regarding the

48 filing of an amended report shall not become effective until the  
49 conclusion of a hearing held pursuant to subsection (d) of this section.

50 (d) (1) An amended report required to be submitted under this  
51 section shall reflect the value of any personal property that was not  
52 included in the report on which the company's tax, under section 12-  
53 80a of the general statutes, was based. If the value of any property  
54 included in said report was inaccurate, the amended report shall  
55 reflect the correct value of such property. Upon receipt of an amended  
56 report, the Secretary of the Office of Policy and Management shall  
57 determine the assessment of property included in such amended  
58 report, which shall equal seventy per cent of the value of such property  
59 plus a penalty equal to twenty-five per cent of said assessment. The  
60 secretary shall determine the tax due for such assessment plus penalty,  
61 pursuant to section 12-80a of the general statutes, and shall notify the  
62 owner to pay the amount due to the municipality not later than thirty  
63 days after such notice.

64 (2) If a property owner elects to refute the findings of the assessor  
65 with respect to an audit of property that was assessed and taxed under  
66 section 12-80a of the general statutes, the owner shall submit a written  
67 notice of such election to the assessor, and a copy of the notice shall be  
68 sent to the Secretary of the Office of Policy and Management. The  
69 notice shall state the reasons why the owner believes the assessor's  
70 audit findings are incorrect. Not later than sixty business days after  
71 receiving the notice, the assessor shall notify the property owner, in  
72 writing, of the time and place of a hearing. The purpose of such  
73 hearing shall be to review the assessor's findings and the property  
74 owner's response to such findings. The assessor's decision with respect  
75 to such findings, including a decision whether or not the property  
76 owner is required to file an amended report, shall be issued, in writing,  
77 not later than thirty business days after the conclusion of the hearing.  
78 Any property owner aggrieved by the assessor's decision may, not  
79 later than sixty business days from the date of the mailing of notice of  
80 the outcome of such hearing, make application for relief to the superior  
81 court for the judicial district in which said owner's property is or was

82 purported to be located, and shall notify the Secretary of the Office of  
83 Policy and Management of the filing of such application for relief. Such  
84 application shall be accompanied by a citation to the town or city to  
85 appear before said court and such appeal shall be returnable at the  
86 same time and served and returned in the same manner as is required  
87 in the case of a summons in a civil action. The authority issuing the  
88 citation shall take from the applicant a bond or recognizance to such  
89 town or city, with surety, to prosecute the application to effect and to  
90 comply with and conform to the orders and decrees of the court in the  
91 premises. Any such application shall be a preferred case, to be heard,  
92 unless good cause appears to the contrary, at the first session, by the  
93 Superior Court or by a committee appointed by the court. The  
94 pendency of such application shall not suspend an action by such town  
95 or city to collect not more than seventy-five per cent of the tax assessed  
96 by the Secretary of the Office of Policy and Management with respect  
97 to property upon which such appeal is taken. If, during the pendency  
98 of such appeal, a new assessment year begins, the applicant may  
99 amend the application as to any matter therein, including an appeal for  
100 such new assessment year, which is affected by its inception. The court  
101 shall have power to grant such relief as to justice and equity  
102 appertains, upon such terms and in such manner and form as appear  
103 equitable, and, if the application appears to have been made without  
104 probable cause, may tax double or triple costs, as the case appears to  
105 demand; and, upon all such applications, costs may be taxed at the  
106 discretion of the court. If the assessment originally determined by the  
107 Secretary of the Office of Policy and Management is reduced by said  
108 court, the applicant shall be reimbursed by the town or city for any  
109 overpayment of taxes, together with interest and any costs awarded by  
110 the court, or, at the applicant's option, shall be granted a tax credit for  
111 such overpayment, interest and any costs awarded by the court. Upon  
112 motion, said court shall, in the event of such overpayment, enter  
113 judgment in favor of such applicant and against such city or town for  
114 the whole amount of such overpayment, together with interest and  
115 any costs awarded by the court.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002, and applicable to assessment years commencing on or after October 1, 2002</i>

**PD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

Effect	Municipalities	FY 03 \$
STATE MANDATE - Cost	All Municipalities	See Below

**Explanation**

STATE MANDATE - There is a cost between \$500 and \$1,000 per company for each municipality to audit telecommunication companies every four years. Current law requires that telecommunication companies submit their property lists to the Office of Policy and Management (OPM).

**OLR Bill Analysis**

sSB 474

**AN ACT CONCERNING TAX AUDITS OF CERTAIN TELECOMMUNICATIONS SERVICES COMPANIES****SUMMARY:**

This bill requires tax assessors to audit the personal property of telecommunication companies that must pay property taxes based on a statewide, as opposed to the local, mill rate. The law requires these companies submit their property lists to the Office of Policy and Management (OPM), which calculates the tax companies must pay the towns. Current law allows the assessors in 11 towns to audit this property for the October 1999 grand list.

The bill requires assessors audit the property every four years, beginning October 1, 2002. The audit can cover any assessment year, but assessors can audit the property one year sooner if the fourth year is also the year during which the law requires them to revalue property. During an audit, taxpayers must list any taxable personal property owned by another taxpayer and located in their offices if the assessors request it.

The bill specifies how assessors must notify taxpayers about the audits and the results. It also specifies how OPM must recalculate taxes in the wake of audit and provides a process by which taxpayers can challenge audit findings. The process allows appeals to Superior Court.

EFFECTIVE DATE: October 1, 2002 and applicable to assessment years beginning on or after that date.

**STATEWIDE PROPERTY TAX FOR TELECOMMUNICATION COMPANY PERSONAL PROPERTY**

The bill requires tax assessors to audit the telecommunications companies' personal property, which is currently listed with OPM and subject to at statewide rate of 47 mills. OPM calculates the tax and companies pay to the towns where the personal property is located.

The statewide mill rate applies to companies that paid the telecommunications gross receipts tax before January 1, 1990 and the sales tax after that date. Other companies can choose whether to pay the statewide or local mill rate.

## **NOTICE REQUIREMENTS**

Assessors must notify taxpayers in writing about the time and place of the audit. They can personally give the notice to the owner, custodian, or any other person who knows about the property and its worth or send them notice by registered or certified mail. The notice must require the taxpayer to come before the assessor or his designee with accounts and other documents regarding the property or its value, which must be examined under oath. In doing the audit, the assessors must assess the property according to the same statutory method OPM must use to assessing property subject to the statewide mill rate.

Assessors must notify taxpayers after they finish an audit. They must do so within 30 day after finishing the audit and identify any property that was (1) mistakenly included in the list of taxable property the owner submitted to OPM, (2) not included on that list, or (3) was incorrectly assessed. The assessors must send a copy of this notice to OPM.

## **RECALCULATING TAXES**

OPM must recalculate a taxpayer's taxes if his property was incorrectly included on the list. It must determine the amount of taxes he paid and deduct it from his subsequent tax bill.

With respect to the other property, taxpayers must either file an amended property list with OPM or notify it that they intend to challenge the assessors' findings. They must do either within 30 days of getting the assessors' notice. Those who want to challenge the findings must file an amended list after the required hearing, which is discussed below.

Amended lists must reflect the value of the property that was not included in the original list, using the statutory method for assessing telecommunication company property. They must also include the correct values for properties that were on the list but incorrectly assessed. In both cases, OPM must calculate the tax and add a penalty

equal to 25% of the assessed amount. It must notify the owners, indicating that they must pay the towns within 30 days of the notice.

### **CHALLENGING AUDIT RESULTS**

Taxpayers challenging audit findings must notify the assessor and OPM to that effect in writing, stating their reasons for doing so. Within 60 business days of getting this notice, the assessor must notify the taxpayer about the time and place of the hearing, which must review the findings and the taxpayer's responses. Within 30 business days after the hearing, the assessor must issue a written decision, which must also specify whether the taxpayer must file an amended list with OPM.

### **APPEAL TO SUPERIOR COURT**

Taxpayers aggrieved by an assessor's decision can appeal to the Superior Court in the judicial district where the property is located. They must do so within 60 business days of the decision and notify OPM about their action. A taxpayer must include with the appeal a citation to the town to appear in court and serve the citation on the town like a summons in a civil action. The appeal does not stop OPM from collecting the taxes.

The taxpayer must provide bond or other surety to the town to insure that they will go through with the appeal and comply with the court's orders and decrees. The court must treat the appeal as a preferred case and grant equitable relief. The taxpayer can amend the appeal if it is pending when a new assessment year begins. The amendment can address assessments made for that year.

The court can impose court costs on the taxpayer if it denies the appeal and double or triple the costs if it was made without probable cause.

If court rules in favor of the taxpayer and reduces the assessment, the town must reimburse him for the overpayments, with interest and any costs the court awards. The taxpayer can choose to receive a property tax credit equal to this amount. Either way, the court must enter a judgment in favor of the taxpayer and against the town for the overpayment and any other above-mentioned costs.

### **BACKGROUND**

**Related Bill**

sHB 5589 also allows assessors to audit telecommunications company personal property, limits the extent to which the value of this property can be depreciated to 80% of the acquisition costs, and allows telecommunications companies to pay taxes on this property according to the local instead of the statewide mill rate.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 17    Nay 0