



House of Representatives

General Assembly

File No. 144

February Session, 2008

Substitute House Bill No. 5599

House of Representatives, March 25, 2008

The Committee on Energy and Technology reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE TAXATION OF TELECOMMUNICATIONS COMPANY PROPERTY AND THE TIMELY FILING OF DECLARATIONS.

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

1 Section 1. Section 12-80a of the 2008 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2008*):

4 (a) Any (1) taxpayer which, prior to January 1, 1990, was subject to
5 tax under chapter 211 with respect to the rendering of
6 telecommunications service and which, on or after January 1, 1990, is
7 subject to tax under chapter 219 for rendering telecommunications
8 service and (2) other taxpayer that is subject to tax under chapter 219
9 for rendering telecommunications service and which has elected in the
10 manner specified in this section to have personal property taxed as
11 provided in this section, shall be required to submit to the
12 Commissioner of Revenue Services and the Secretary of the Office of

13 Policy and Management, not later than the thirtieth day of November
14 of each year during which it is subject to tax under chapter 219, a list of
15 all personal property on a town-by-town basis that is owned by such
16 taxpayer in this state on the first day of October of such year and that
17 is used solely and exclusively for rendering telecommunications
18 service, as defined in said chapter 219, including the location of each
19 item of such property and the fair market value thereof, recognizing
20 depreciation of such property to the maximum extent allowed for
21 purposes of the corporation business tax in this state, as certified by
22 the Commissioner of Revenue Services. Each such taxpayer shall also
23 submit said list to each municipality in which such taxpayer owns
24 property, provided the list submitted to a municipality shall contain
25 only the personal property owned by such taxpayer that is located in,
26 or allocated pursuant to this subsection to, said municipality. If the
27 records of a taxpayer subject to the requirements of this subsection do
28 not contain the data necessary to develop the list as required without
29 undue cost, the taxpayer may, for purposes of requirements under this
30 subsection, petition the Commissioner of Revenue Services for
31 approval of an alternate method of determining the value of the plant
32 used solely and exclusively to render telecommunications services, but
33 not including central office or switching equipment of that taxpayer,
34 located in each town in the state. If the commissioner finds that the
35 alternative method proposed results in a reasonable approximation of
36 the value of the property of the taxpayer located in each town and
37 used solely and exclusively for rendering telecommunications service,
38 the commissioner shall notify the taxpayer that the proposed alternate
39 method is acceptable and the taxpayer shall be permitted to use the
40 alternate method in developing the list required under this subsection.

41 (b) (1) Not later than the first day of February immediately
42 following the end of such tax year, the Secretary of the Office of Policy
43 and Management shall determine, with respect to such company, a
44 value for personal property equivalent to seventy per cent of the value
45 of personal property included in the list of such property prepared and
46 certified in accordance with subsection (a) of this section. The amount
47 of tax applicable with respect to such personal property of any

48 taxpayer subject to the tax imposed under this section shall be
49 determined by multiplying the value of personal property of such
50 company, as determined under this subsection, by a mill rate of forty-
51 seven mills. Said secretary shall, not later than the first day of March
52 immediately following the end of such tax year, submit a tax bill to
53 each company stating the amount of tax payable to each town in
54 relation to the personal property of such taxpayer located in such
55 town. Such tax shall be due and payable to the town in which such
56 personal property is located not later than the first day of April
57 immediately following. Any city or borough not consolidated with the
58 town in which it is located and any town containing such a city or
59 borough shall receive a portion of the tax due and payable to such
60 town on the basis of the following ratio: The total taxes levied in the
61 previous fiscal year by such town, city or borough shall be the
62 numerator of the fraction. The total taxes levied by the town and all
63 cities or boroughs located within such town shall be added together,
64 and the sum shall be the denominator of the fraction. Any such city or
65 borough may, by vote of its legislative body, direct the Secretary of the
66 Office of Policy and Management to reallocate all or a portion of the
67 share of such city or borough to the town in which it is located.

68 (2) The person responsible for the collection of taxes for each town,
69 city or borough owed taxes under this subsection may, at such time as
70 such tax becomes delinquent as provided in sections 12-146 and 12-
71 169, subject such tax to interest at the rate of one and one-half per cent
72 of such tax for each month or fraction thereof which elapses from the
73 time when such tax becomes due and payable until the same is paid.

74 (c) With respect to tangible personal property included in the list of
75 such property submitted to the Secretary of the Office of Policy and
76 Management as provided in subsection (a) of this section, any taxpayer
77 subject to the tax imposed under this section for any tax year shall not
78 be subject to property tax in any town applicable to such personal
79 property for the assessment year in such town commencing on the first
80 day of October immediately preceding the date on which the tax
81 determined with respect to such property in accordance with this

82 section becomes due and payable.

83 (d) Any taxpayer that, on or after January 1, 1990, is subject to tax
84 under chapter 219 for rendering telecommunications service but that,
85 prior to January 1, 1990, was not subject to tax under chapter 211 for
86 rendering telecommunications service may elect to have personal
87 property taxed in the manner specified in this section. Such election
88 shall be made in writing and filed with the Secretary of the Office of
89 Policy and Management and a copy thereof shall be filed with the
90 assessor of each town in which personal property affected by such
91 election is located. Such election, once filed with the secretary, shall be
92 irrevocable and shall, if filed on or before the date that is two months
93 prior to the start of the assessment year, be effective for such
94 assessment year and for all succeeding assessment years, otherwise to
95 be effective for the next succeeding assessment year and all succeeding
96 assessment years.

97 (e) For assessment years commencing on or after October 1, 1997,
98 the provisions of this section, including informational reporting
99 requirements imposed on owners, shall also apply, to the extent
100 provided in section 12-80b of the 2008 supplement to the general
101 statutes, to property that is used both to render telecommunications
102 service subject to tax under chapter 219 and to render community
103 antenna television service subject to tax under chapter 219 and that is
104 required, under subsection (a) of section 12-80b of the 2008 supplement
105 to the general statutes, to be taxed as provided in this section.

106 (f) Any municipality may examine the Office of Policy and
107 Management's or the Department of Revenue Services' audit of a
108 taxpayer's submission pursuant to subsection (a) of this section.

109 Sec. 2. Section 12-41 of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective from passage and*
111 *applicable to annual declarations due on or after November 1, 2008*):

112 (a) "Municipality", whenever used in this section, includes each
113 town, consolidated town and city, and consolidated town and

114 borough.

115 (b) No person required by law to file an annual declaration of
116 personal property shall include in such declaration motor vehicles
117 which are registered in the office of the state Commissioner of Motor
118 Vehicles. With respect to any vehicle subject to taxation in a town other
119 than the town in which such vehicle is registered, pursuant to section
120 12-71, information concerning such vehicle may be included in a
121 declaration filed pursuant to this section or section 12-43, or on a
122 report filed pursuant to section 12-57a.

123 (c) The annual declaration of the tangible personal property owned
124 by such person on the assessment date, shall include, but is not limited
125 to, the following property: Machinery used in mills and factories,
126 cables, wires, poles, underground mains, conduits, pipes and other
127 fixtures of water, gas, electric and heating companies, leasehold
128 improvements classified as other than real property and furniture and
129 fixtures of stores, offices, hotels, restaurants, taverns, halls, factories
130 and manufacturers. Commercial or financial information in any
131 declaration filed under this section shall not be open for public
132 inspection.

133 (d) (1) Any person who fails to file a declaration of personal
134 property on or before the first day of November, or on or before the
135 extended filing date as granted by the assessor pursuant to section 12-
136 42 shall be subject to a penalty equal to twenty-five per cent of the
137 assessment of such property; (2) any person who files a declaration of
138 personal property in a timely manner, but has omitted property, as
139 defined in section 12-53, shall be subject to a penalty equal to twenty-
140 five per cent of the assessment of such omitted property. The penalty
141 shall be added to the grand list by the assessor of the town in which
142 such property is taxable; and (3) any declaration received by the
143 municipality to which it is due that is in an envelope bearing a
144 postmark showing a date within the allowed filing period shall not be
145 deemed to be delinquent.

| | | |
|---|--|--------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2008</i> | 12-80a |
| Sec. 2 | <i>from passage and applicable to annual declarations due on or after November 1, 2008</i> | 12-41 |

Statement of Legislative Commissioners:

In subsection (a) of section 1, "Such taxpayers" was changed to "Each such taxpayer" and "it" was changed to "such taxpayer" for grammatical consistency

ET *Joint Favorable Subst.-LCO*

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 09 \$ | FY 10 \$ |
|--|-------------|----------|----------|
| Department of Revenue Services; Policy & Mgmt., Off. | GF - None | None | None |

Note: GF=General Fund

Municipal Impact:

| Municipalities | Effect | FY 09 \$ | FY 10 \$ |
|------------------------|-----------|-----------|-----------|
| Various Municipalities | Uncertain | See Below | See Below |

Explanation

There is no fiscal impact to the Office of Policy and Management or the Department of Revenue Services to require telephone and telecommunications companies participating in the statewide system for personal property tax under 12-80a to submit lists of such property on a town-by-town basis.

Providing each town such a list and allowing municipalities to audit the information may result in municipal revenue increases or decreases, depending upon the outcomes of any audits.

There is a potential loss in revenue from the assessment of penalties on property tax declarations received after November 1, but postmarked by November 1.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5599****AN ACT CONCERNING THE TAXATION OF TELECOMMUNICATIONS COMPANY PROPERTY AND THE TIMELY FILING OF DECLARATIONS.****SUMMARY:**

By law, telecommunications companies subject to the statewide personal property tax must annually file a list of their taxable personal property with the Department of Revenue Services (DRS) and the Office of Policy and Management (OPM). This bill requires that the property be listed on a town-by-town basis. The bill also requires the companies to submit to the relevant municipalities a list of the personal property they own that is located in or allocated to the municipality.

By law, DRS and OPM can audit the companies' submissions. The bill allows any municipality to examine these audits.

Under current law, the failure to file a declaration of personal property by November 1 (or the deadline set by the assessor if an extension is granted) is subject to a penalty of 25% of the assessment of the property on the list. The bill specifies that a declaration postmarked by the filing deadline is not delinquent and thus not subject to the penalty.

EFFECTIVE DATE: Upon passage and applicable to declarations due on or after November 1, 2008 for the penalty provision; July 1, 2008 for the telecommunications companies provisions.

BACKGROUND***Property Tax on Telecommunications Companies***

By law, the personal property of telephone companies is assessed at

a statewide mill rate of 47 mills and subject to uniform depreciation rules. Other telecommunications companies can opt for this treatment. The revenue raised is distributed to the towns where the companies own property.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 21 Nay 0 (03/06/2008)