Legislative Fiscal Bureau

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February 1, 2024

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 323/Assembly Bill 371: Personal Property Tax Exemption for Telephone Companies

Senate Bill 323 (SB 323) and Assembly Bill 371 (AB 371) would exempt the personal property of telephone companies from the state utility tax.

SB 323 was introduced on June 7, 2023, and referred to the Senate Committee on Utilities and Technology. That Committee held a public hearing on November 15, 2023. Senate Amendment 1 (SA 1) to SB 323 was introduced on December 4, 2023. On December 20, 2023, that Committee recommended passage of SB 323, as amended by SA 1, by a vote of 5 to 0.

AB 371 is an identical companion bill that was introduced on July 27, 2023, and referred to the Assembly Committee on Ways and Means. Assembly Amendment 1 (AA 1), which is identical to SA 1 to SB 323, was introduced on December 5, 2025. The Committee on Ways and Means held a public hearing on AB 371 on January 11, 2024, and is scheduled to hold an executive session on the bill on February 1, 2024.

BACKGROUND

Under current law, telephone companies are subject to the state's ad valorem utility tax. Telephone companies are those that provide telecommunications services to another, including the resale of services provided by another telephone company. "Telecommunications services" means the transmission of voice, video, facsimile, or data messages. Telegraph messages are included in this definition, but cable television, radio, one-way radio paging, and transmitting messages incidental to hotel occupancy are excluded. A telephone company does not include those who operate a private shared communications system and who are not otherwise a telephone company.

The tax assessment for telephone companies equals the value of real and personal property within each local taxing jurisdiction where the company's property is located, multiplied by the net property tax rate applied in that jurisdiction. However, if telephone company property is used in part for utility operations and in part for nonoperating purposes, the property's predominant use determines how it is assessed. If real or tangible personal property is used more than 50% in the business's operation as a telephone company, then the Department of Revenue (DOR) assesses the property and the property is exempt from the general property tax. If real or tangible personal property is used less than 50% in the business's operation as a telephone company, then the property is assessed and taxed locally. State law excludes from taxation the value of certain property that is also exempt from general property taxes: (a) motor vehicles; (b) treatment plant and pollution abatement equipment; and (c) computers, cash registers, and fax machines.

2019 Act 128 created an exemption from the utility tax for telephone company personal property used to provide broadband service in rural areas. The exemption applies to two types of broadband service property: (a) property located in rural areas and installed prior to January 1, 2020, that provides internet speeds of at least 25 megabits per second download and 3 megabits per second upload ("25/3"); and (b) property located in rural or underserved areas and installed after January 1, 2020, that provides internet speeds of at least 25/3, or the standard for advanced telecommunications set by the Federal Communications Commission, whichever is faster. Under the Act, broadband property under "a" is exempt from tax beginning January 1, 2025, and property under "b" is exempt from tax beginning January 1, 2021.

For assessment year 2023, state taxes on telephone companies totaled $58.8 million, based on an assessed taxable value of $3,544.0 million, which included $3,210.3 million (90.6%) in assessed taxable personal property. It is now estimated that, under current law, telephone company tax revenues will total $59.9 million in 2023-24 and $52.1 million in 2024-25.

SUMMARY OF BILLS, AS AMENDED

The bills, as amended, would provide an exemption from the state utility tax for tangible personal property of a telephone company, beginning with assessments as of January 1, 2024.

FISCAL EFFECT

DOR released a revised fiscal estimate for each bill in January, 2024, to account for several factors: (a) SA 1 and AA 1 modified the bills to specify that the exemption would first apply for the 2024 tax assessment, rather than the 2023 tax assessment; (b) the 2023 tax assessment, which became available in November, 2023, was higher than previously expected; and (c) the corresponding November, 2023, final payment was higher than previously estimated. Assuming the bills, as amended, are enacted before May, 2024, it is estimated that the bills would reduce 2023-24 utility tax collections by $26.9 million and 2024-25 collections by $47.2 million. It is estimated that total telephone utility tax collections would be reduced by 44.9% in 2023-24 and 90.6% in 2024-25, compared to the current law estimates for each year.

In addition, DOR estimates $22,700 in one-time administrative costs for computer programming changes, which it states that it cannot absorb with current resources and would not be provided under the bills as amended. The Public Service Commission also prepared a fiscal estimate, but determined that the bills would not have a fiscal impact on the Commission.

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