

Communications Services Tax Working Group

June 11, 2012, Meeting Materials

Agenda Items 1 and 2

No materials

Agenda Item 3

Mission of the Communications Services Tax Working Group

Section 12 of Chapter 2012-70, Laws of Florida, provides that the working group is charged with the responsibility to:

- a) Review national and state tax policies relating to the communications industry;
- b) Review the historical amount of tax revenue that has been generated by the communications services taxes imposed or administered pursuant to chapter 202, Florida Statutes, for the purposes of determining the effect that laws passed in the past 5 years have had on declining revenues;
- c) Review the extent to which this revenue has been relied on to secure bonded indebtedness;
- d) Review the fairness of the state's communications tax laws and the administrative burdens it contains, including whether the applicability of the tax laws is reasonably clear to communications services providers, retailers, customers, local government entities and state administrators;
- e) Identify options for streamlining the administrative system; and
- f) Identify options that remove competitive advantages within the industry as it relates to the state's tax structure without unduly reducing revenue to local governments.

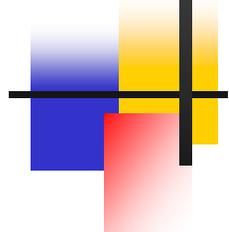
Agenda Item 4

Introduction of the Members of the Working Group

- **Lisa Vickers, Chair**
Executive Director, Florida Department of Revenue
- **Gary S. Lindsey**
Director of External Tax Policy, AT&T
- **Kathleen Kittrick**
Director of State Government Affairs, Verizon
- **Brian D. Smith**
Director of Transactional Taxes, The DirecTV GROUP, Inc.
- **Charlie Dudley**
General Counsel, Florida Cable Telecommunications Association
- **Alan S. Rosenzweig**
Deputy County Administrator, Leon County
- **Davin J. Suggs**
Senior Legislative Advocate, Florida Association of Counties
- **The Honorable Gary Resnick**
Mayor, City of Wilton Manors
- **Sharon R. Fox**
Tax Revenue Coordinator, City of Tampa

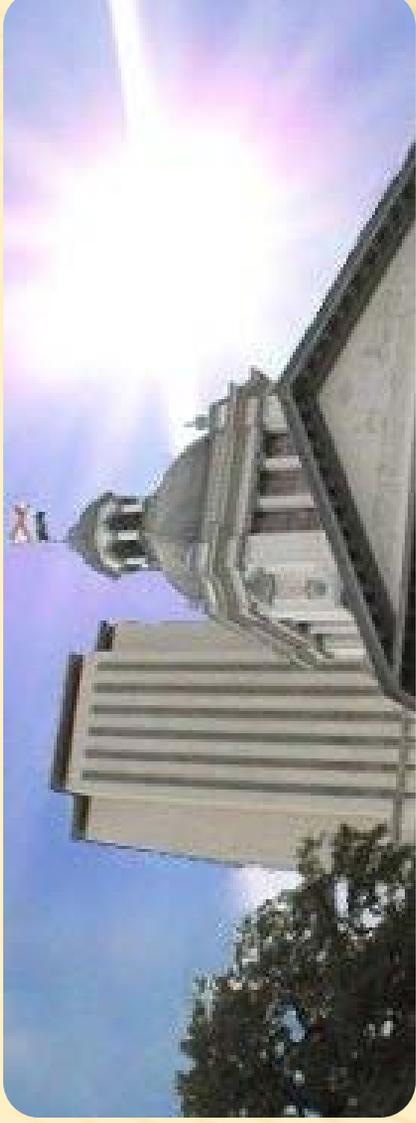
Agenda Item 5

Overview of the Sunshine Law



Overview of the Sunshine Law

Presented by:
Nancy Terrel, General Counsel,
Florida Department of Revenue



2012 SUNSHINE LAW OVERVIEW

Patricia R. Gleason
Special Counsel for Open Government
Attorney General Pam Bondi

SCOPE OF THE SUNSHINE LAW

- ✘ Florida's Government in the Sunshine Law, commonly referred to as the Sunshine Law, provides a right of access to governmental proceedings at both the state and local levels. The law is equally applicable to elected and appointed boards and has been applied to any gathering of two or more members of the same board to discuss some matter which will foreseeably come before that board for action.

SCOPE OF THE SUNSHINE LAW

There are three basic requirements :

- 1) Meetings of public boards or commissions must be open to the public
- 2) Reasonable notice of such meetings must be given
- 3) Minutes of the meetings must be taken, promptly recorded and open to public inspection

SCOPE OF THE SUNSHINE LAW

- ✘ Advisory boards created pursuant to law or ordinance or otherwise established by public agencies are subject to the Sunshine Law, even though their recommendations are not binding upon the agencies that create them.

SCOPE OF THE SUNSHINE LAW

- ✘ Neither Legislature nor the courts are subject to the Sunshine Law. There is a constitutional provision that provides access to legislative meetings but it is not as strict as the Sunshine Law. However, if legislators are appointed to serve on a board subject to the Sunshine Law, the legislator members are subject to the same Sunshine Law requirements as the other board members.

SCOPE OF THE SUNSHINE LAW

- ✘ Meeting of staff are not ordinarily subject to the Sunshine Law. However, when a staff member ceases to function in a staff capacity and is appointed to a committee which is delegated authority normally within the public board or commission, the staff member loses his or her identity as staff while working on the committee and the Sunshine Law is applicable to the committee. It is the nature of the act performed, not the makeup of the committee or the proximity of the act to the final decision, which determines whether a committee composed of staff is subject to the Sunshine Law.

SCOPE OF THE SUNSHINE LAW

- ✘ Only the Legislature can create an exemption to the Sunshine Law (by a 2/3 vote) and allow a board to close a meeting. *Exemptions are narrowly construed.*

SCOPE OF THE SUNSHINE LAW

- ✘ Board members may not use e-mail or the telephone to conduct a private discussion about board business. Board members may send a “one-way” communication to each other as long as the communication is kept as a public record and there is no response to the communication except at an open public meeting. Accordingly, any “one-way” communications (for example one board member wants to forward an article to the board members for information) should be distributed by the board office so that they can be preserved as public records and ensure that any response to the communication is made only at a public meeting.

SCOPE OF THE SUNSHINE LAW

- ✘ While a board member is not prohibited from discussing board business with staff or a nonboard member, these individuals cannot be used as a liaison to communicate information between board members.
- ✘ For example, a board member cannot ask staff to poll the other board members to determine their views on a board issue.

BOARD MEETINGS

BOARD MEETINGS?

- ✘ Board members are not prohibited from using written ballots to cast a vote as long as the votes are made openly at a public meeting, the name of the person who voted and his or her selection are written on the ballot, and the ballots are maintained and made available for public inspection in accordance with the Public Records Act.

BOARD MEETINGS

- ✘ While boards may adopt reasonable rules and policies to ensure orderly conduct of meetings, the Sunshine Law does not allow boards to ban non-disruptive videotaping, tape recording, or photography at public meetings.

BOARD MEETINGS

- ✘ Board meetings should be held in buildings that are open to the public. This means that meetings should not be held in private homes.

BOARD MEETINGS

- ✘ The phrase “open to the public” means open to all who choose to attend. Boards are not authorized to exclude some members of the public (i.e. employees or vendors) from public meetings.

PENALTIES

- ✘ Any member of a board or commission or of any state agency or authority of a county, municipal corporation, or political subdivision who *knowingly* violates the Sunshine Law is guilty of a misdemeanor of the second degree. An unintentional violation may be prosecuted as a noncriminal infraction resulting in a civil penalty up to \$500.

PENALTIES

- ✘ The Sunshine Law provides that no resolution, rule, regulation or formal action shall be considered binding except as taken or made at an open meeting.

PENALTIES

- ✘ Recognizing that the Sunshine Law should be construed so as to frustrate all evasive devices, the courts have held that action taken in violation of the law was void *ab initio*.

PENALTIES

- ✘ Where, however, a public board or commission does not merely perfunctorily ratify or ceremoniously accept at a later open meeting those decisions which were made at an earlier secret meeting but rather takes "independent final action in the sunshine," the board's decision may stand.

ADDITIONAL RESOURCES

1. Office of Attorney General Pam Bondi website:
<http://www.myfloridalegal.com>
2. Office of Governor Rick Scott website:
<http://www.flgov.com>
2. First Amendment Foundation website:
<http://www.floridafaf.org>

THE SUNSHINE LAW

The following information on Florida's Government-in-the-Sunshine Law has been compiled in order to give you a better understanding of the principles of "open government." Much of the information has been taken directly from the Florida Attorney General's website. If you have any questions or concerns about your activities as a member of the Communication Services Tax Working Group as it relates to Open Government requirements you may want to review the Attorney's General's Website at myfloridalegal.com or contact Nancy Staff Terrel, Department of Revenue General Counsel at (850) 617-8347, or terreln@dor.state.fl.us.

What is the Sunshine Law?

Florida's Government-in-the-Sunshine law provides a right of access to governmental proceedings at both the state and local levels. It applies to any gathering of two or more members of the same board to discuss some matter which will foresee ably come before that board for action. There is also a constitutionally guaranteed right of access. Virtually all state and local collegial public bodies are covered by the open meetings requirements with the exception of the judiciary and the state Legislature which has its own constitutional provision relating to access.

What are the requirements of the Sunshine law?

The Sunshine law requires that 1) meetings of boards or commissions must be open to the public; 2) reasonable notice of such meetings must be given, and 3) minutes of the meeting must be taken.

What agencies are covered under the Sunshine Law?

The Government-in-the-Sunshine Law applies to "any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation or political subdivision." Thus, it applies to public collegial bodies within the state at both the local as well as state level. It applies equally to elected or appointed boards or commissions.

What qualifies as a meeting?

The Sunshine law applies to all discussions or deliberations as well as the formal action taken by a board or commission. The law, in essence, is applicable to any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter on which foreseeable action will be taken by the public board or commission. There is no requirement that a quorum be present for a meeting to be covered under the law.

Can a public agency hold closed meetings?

There are a limited number of exemptions which would allow a public agency to close a meeting. These include, but are not limited to, certain discussions with the board's attorney over pending litigation and portions of collective bargaining sessions. In addition, specific portions of meetings of some agencies (usually state agencies) may be closed when those agencies are making probable cause determinations or considering confidential records.

Does the law require that a public meeting be audio taped?

There is no requirement under the Sunshine law that tape recordings be made by a public board or commission, but if they are made, they become public records.

Can a city restrict a citizen's right to speak at a meeting?

Public agencies are allowed to adopt reasonable rules and regulations which ensure the orderly conduct of a public meeting and which require orderly behavior on the part of the public attending. This includes limiting the amount of time an individual can speak and, when a large number of people attend and wish to speak, requesting that a representative of each side of the issue speak rather than every one present.

As a private citizen, can I videotape a public meeting?

A public board may not prohibit a citizen from videotaping a public meeting through the use of nondisruptive video recording devices.

Can a board vote by secret ballot?

The Sunshine law requires that meetings of public boards or commissions be "open to the public at all times." Thus, use of preassigned numbers, codes or secret ballots would violate the law.

Can two members of a public board attend social functions together?

Members of a public board are not prohibited under the Sunshine law from meeting together socially, provided that matters which may come before the board are not discussed at such gatherings.

What is a public record?

The Florida Supreme Court has determined that public records are all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge. They are not limited to traditional written documents. Tapes, photographs, films and sound recordings are also considered public records subject to inspection unless a statutory exemption exists.

WRITTEN CORRESPONDENCE

A written report, e-mail, instant message, or text by one member to inform other members of a subject that will be discussed at a public meeting is not a violation of the Sunshine Law **if** prior to the meeting, there is no interaction related to the report, e-mail instant message, or text among the members. In other words the communication is “one way” with no expectation of response. The report, e-mail, instant message or text however is a public record under the Public Records Act and must be kept by the sender and given to DOR staff for record retention purposes. Circulation among members of a report, e-mail, instant message or text for comment is considered an interaction and would violate the Sunshine Law unless public notice and access are provided.

Remember you can send “one way” information, but save discussion and comment for the public meetings. The best course of action is to provide any items you wish to have other members review to DOR staff and they will send to the other members and keep a copy for records retention purposes.

TELEPHONE AND INSTANT MESSAGING CONVERSATIONS

The Sunshine Law applies to all discussions between two or more members on matters that foreseeably will come before the board or commission for action. Using the telephone, email or other instant messaging for such discussions does not remove the conversation from the Sunshine Law requirements. Further if a member wants to hold a telephone conference a notice must be published before the conference call providing the telephone number so members of the public can listen. Minutes must also be taken. If you discover a need to have a conference call with other members, please contact the Department about 25 days in advance and we can set up an electronic meeting and notice the meeting as required. Otherwise, save discussions for the public meetings.

The Sunshine Law requires communication between advisory group members at the meetings to be audible so that members of the public can hear what is being said. As a result, messaging other members of the advisory group without repeating the message aloud for the room to hear would violate the Sunshine Law. Also, messaging non-advisory group members could easily be perceived by individuals in the audience as an

impermissible message so the best practice is to refrain from texting, emailing or instant messaging during a meeting.

USE OF NONMEMBERS AS LIAISONS

The Sunshine Law covers meetings between members and any nonmember when the nonmember is being used as a liaison between committee members, or to conduct, in effect, a meeting of members. The normal staff administrative functions, including DOR employees contacting you to set up meetings, are not prohibited under the Sunshine Law. However, the Department will not “poll” members on issues which will foreseeably come before the task force.

If you have any questions or concerns, feel free to contact Nancy Staff Terrel, Department of Revenue General Counsel at (850) 617-8347.

Agenda Item 6

Review of National and State Tax Communications Policies

An Overview of Florida's Communications Services Tax and National and State Policies

Presented by: French Brown, Deputy Director,
Technical Assistance and Dispute Resolution

History

In 2000, the Florida Legislature enacted the communications services tax (CST), Chapter 202, Florida Statutes, effective October 1, 2001.

This new law simplified and restructured numerous state and local taxes and fees imposed on communications services into a single tax centrally administered by the Department of Revenue.

Examples of Services Subject to the CST

- * Local, long distance, or toll telephone.
- * Cable television.
- * Direct-to-home satellite.
- * Mobile communications.
- * Private line services.
- * Telephone charges made to guests at a hotel or motel.
- * Facsimiles (FAX).
- * Telex, telegram, and teletype.

Tax Rates

* Florida Portion

The state portion of the tax is imposed at the rate of 6.65 percent. The state portion of the tax is collected with the gross receipts tax of 2.37 percent and .015 percent, for a combined Florida communications services tax rate of 9.17 percent.

* Local Portion

Each local taxing jurisdiction (municipality, charter county, or unincorporated county) has a specific local tax rate. As of January 1, 2012, there were 481 separate jurisdictions. The local rates range from 0% to 7.12%, with a weighted average of 5.04% in 2011.¹

- * Municipalities and counties may levy up to a rate of 5.22%
- * Non-charter counties may levy up to a rate of 1.84%

- * Direct-to-home satellite service is taxed at a state rate of 10.8 % plus 2.37 % gross receipts tax for a total of 13.17 %. The local component of the communications services tax does not apply to these services.

¹ Based on local tax reported.

Terms to Know for Purposes of the Working Group

- * State portion of the communications services tax = 6.65% tax rate. The tax collected flows through section 212.20, F.S. (sales and use tax).
- * Gross receipts tax = 2.52% generally, 2.37% for certain services such as residential land lines and direct to home satellite. This tax is imposed under Chapter 203, F.S.
- * Florida communications services tax = 9.17% tax rate. Combined state communications services tax and gross receipts tax.

General Exemptions

- * Sales for resale.
- * Sales to federal agencies, the state, any county, any municipality, or other political subdivision.
- * Sales to religious and educational organizations with 501(c)(3), I.R.C., status.
- * Sales to certain homes for the aged with 501(c)(3), I.R.C., status.

Residential Exemption

- * Certain communications services sold to a residential household are exempt from the rate of 6.65 % state tax and the rate of 0.15 % gross receipts tax.
- * The sales price of these residential services are subject to the rate of 2.37 % gross receipts tax and any applicable local tax.
- * This partial exemption does not apply to the sale of mobile communications service, cable service, direct-to-home satellite service, or any transient public lodging establishment as defined in Chapter 509, Florida Statutes.

Services Not Subject to CST

- * Internet access services (such as electronic mail services, electronic bulletin board services, or similar on-line computer services).
- * Information services (such as electronic publishing, web-hosting service, or end-user 900-number service).
- * The sale or recharge of prepaid calling arrangements (these services are subject to Sales and Use Tax).
- * The sale or lease of tangible personal property (also subject to the Sales and Use Tax).

Florida's Treatment of Prepaid Calling Arrangements

- * “Prepaid calling arrangement” means the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount. See Paragraph 212.05(1)(e), F.S.

Florida's Treatment of Prepaid Calling Arrangements

- * Sales of prepaid calling arrangements are treated as the sale of tangible personal property, are subject to the 6% sales tax plus applicable discretionary sales surtax, are collected at the time of sale, and are remitted by the selling dealer.
- * If the sale or recharge of the prepaid calling arrangement does not take place at the dealer's place of business, it shall be deemed to take place at the customer's shipping address or, if no item is shipped, at the customer's address or the location associated with the customer's mobile telephone number.

Sourcing Sales to Local Jurisdictions

The law requires sellers of communications services to apply the correct local government rate based on the service address, which in some cases is defined to mean the place of primary use of the customer. The communications dealer must bill and remit the local tax properly to assure that local governments will receive the appropriate distribution related to services provided within their boundaries.

Sourcing Sales to Local Jurisdictions

The Department maintains the master database that assigns Florida addresses to local taxing jurisdictions. This database is based on information provided by local taxing jurisdictions and is updated every six months.

Database Certification

Dealer or vendor databases can be certified for their accuracy of assignment of street addresses to the proper jurisdiction. Dealers or database vendors can request certification, and if approved by the Department, then Dealers who exercise due diligence in applying the database will be held harmless from situsing errors and can be eligible for an enhanced collection allowance.

Collection Allowance

For the purpose of compensating dealers providing communications services for the keeping of prescribed records, the filing of timely tax returns, and the proper accounting and remitting of communications services taxes and gross receipts taxes, dealers are allowed to deduct a general credit equal to 0.25% of the tax due on each return.

Dealers that use a qualifying method, such as a certified database or a direct-to-home satellite provider, receive an enhanced credit equal to 0.75% of the tax due on each return.

Legislative Changes to Florida's CST

Recent State Law Changes

- * 2007 – Emergency Rate Repeal – Ch. 2007-106, L.O.F.
- * 2010 – “Netting” Bad Debt – Ch. 2010-83, L.O.F.
- * 2010 – Sales Tax/Gross Receipts Rate Swap – Ch. 2010-149, L.O.F.
- * 2010 – Transient Public Lodging – Ch. 2010-138, L.O.F.
- * 2011 – Rounding Rule – Ch. 2011-120, L.O.F.
- * 2012 – Transient Public Lodging – Ch. 2012-165, L.O.F.
- * 2012 – Definitions, Local Siting, etc. – Ch. 2012-70, L.O.F.

Internet Tax Freedom Act

and Amendments

Florida initially qualified for the Grandfathering provision under the federal Internet Tax Freedom Act, allowing the state the ability to tax the purchase, use, or sale of telecommunications services by a provider of Internet access.

However, the 2007 Amendment to the federal act narrowed the term “Internet access.” As of July 1, 2008, Florida was subject to the federal ban on tax on Internet access, including telecommunications services that are purchased, used, or sold by a provider of Internet access to provide Internet access.

Florida's Survey of Other States' Communications Services Tax Policies

Initial Survey Questions

- * Does the state impose a tax on the sale of communication services?
- * Is the tax separate from sales tax?
- * Who administers the tax? (State/Local)
- * Whom is the tax imposed on? (Consumer/Dealer)
- * Where are the services sourced? (Consumer/Dealer)

Initial Survey Questions

The survey asked whether the following services were subject to tax, and if so, what the state and local rates were:

- * Residential Wired Line Telephone Service
- * Direct-to-home satellite television service
- * Commercial Wired Line Telephone Service
- * Prepaid Communications Services
- * Mobile Communications Service
- * Digital Goods
- * Voice Over Internet Protocol Service (VoIP)
- * Digital Services
- * Cable Television Service

Initial Survey Questions

The survey also asked:

- * If applicable, how local sourcing was administered (what level and how distributed).
- * How the state treats various prepaid communications services, including which tax applies and local sourcing of the following:
 - * Prepaid phone cards
 - * New prepaid wireless plans
 - * Recharge of prepaid wireless plans
 - * Prepaid wireless plan bundled with tangible personal property (phone)
- * If the state allows bundling/unbundling of transactions using the dealer's books and records.

Initial Survey Findings

Twenty-five (25) states and the District of Columbia answered the initial, detailed survey. Of the 26, two (Nevada and Oregon) did not impose tax on communications services. The 24 remaining jurisdictions were:

- Alabama
- Arkansas
- Connecticut
- D.C.
- Georgia
- Hawaii
- Indiana
- Iowa
- Kentucky
- Louisiana
- Maryland
- Massachusetts
- Michigan
- Missouri
- Nebraska
- New Jersey
- New York
- South Carolina
- Texas
- Utah
- Virginia
- Washington
- West Virginia
- Wyoming

Initial Survey Findings

- * Most states administer the tax at the state level. Only Nebraska and New York administer at both the state and local level.
- * All states tax residential and nonresidential services at the same rate, except for Florida and the District of Columbia (D.C. applies a rate of 10% for all residential communications services and a rate of 11% for all non-residential communications services).

Initial Survey Findings – State Rates

Of the 24 jurisdictions other than Florida:

- * Only one jurisdiction (Washington, D.C.) generally had a higher state tax rate on communications services.
- * Six states had a state communications tax rate different from their general sales tax rate (4 had higher communications services tax rates, 2 had higher sales tax rates)
- * Florida had the largest variance in state rates across taxable services (2.37% to 13.17%). The next closest were ~5% variance. Thirteen states had no variance in rates across taxable services.

Initial Survey Findings – Local Rates

Of the 21² states other than Florida:

- * Two jurisdictions (Maryland and New York) generally had higher local tax rates on communications services.
- * Three states had local communications tax rates different from their local general sales tax rates (1 had higher communications services tax rates, 2 had higher sales tax rates)
- * Florida had the second largest variance in local rates across taxable services (0% to 7.12%, Avg 5.04%). Maryland was the highest with 0% to 8%. Fourteen states had no variance in local rates across taxable services.

² Connecticut, D.C., and Indiana did not complete the local rate portion of the survey.

Initial Survey Findings - Sourcing

Of the 21² states other than Florida:

- * Six states source to the state level.
- * Five states source to the county level.
- * Seven states source to the city level.
- * Three states source below the city level.

- * Only Missouri, South Carolina, and Utah use some type of distribution formula when determining local amounts.
- * Other states distribute actual collections.

Initial Survey Findings - Prepaid

Of the 24 states other than Florida:

- * Fourteen states tax prepaid services solely as sales and use tax.
- * Six states tax prepaid services as a mix of sales and use tax and other taxes.
- * Four states tax prepaid services as a mix of sales and use tax or not subject to tax at all.

Initial Survey Findings - Bundling

Of the 23 states other than Florida:

- * Nineteen states allow services to be unbundled via books and records.
- * Fifteen states had the same tax rate across services.

Follow-Up Research

In an attempt to cover every state, the Department researched the following targeted questions for the remaining states:

- Alaska
- Arizona
- California
- Colorado
- Delaware
- Idaho³
- Illinois
- Kansas
- Maine³
- Minnesota
- Mississippi
- Montana
- New Hampshire
- New Mexico
- North Carolina
- North Dakota
- Ohio
- Oklahoma
- Pennsylvania
- Rhode Island
- South Dakota
- Tennessee
- Vermont
- Wisconsin

³ These states did not impose a tax on communications services.

Follow-Up Research Questions

- * Does the state impose a tax on the sale of communications services? Can you provide examples?
- * What is the communications services tax rate?
- * What is the general sales tax rate?
- * Who administers the communications services tax?
- * What level is the local rate?
- * How is the rate distributed?
- * How does your state treat prepaid calling arrangements?

Follow-Up Research Findings – Rates

Of the remaining 22 states other than Florida:

- * Only one jurisdiction (California), generally had a higher tax rate on communications services. (total rate of 7.83% to 18.83%)
- * Eight states had a state communications services tax rate different from their general sales tax rate (7 had higher communications service rates, 1 had a higher sales tax rate)

Follow-Up Research Findings - Sourcing

Of the remaining 22 states other than Florida:

- * Eleven states administer at the state level. Two states administer at the local level. Six states administer at both the state and local levels.
- * Six states source to the state level.
- * One state sources to the county level.
- * Three states source to the city level.
- * One state sources below the city level.
- * North Dakota and Ohio use some type of distribution formula when determining local amounts.

Follow-Up Research Findings - Prepaid

Of the remaining 22 states other than Florida:

- * Twelve states tax prepaid services solely as sales and use tax.
- * One state taxes prepaid services solely by a communications service tax.
- * One state taxes prepaid services as a mix of sales and use tax and communication service taxes.
- * One state taxes prepaid services solely by a gross receipts tax.

Overall Survey & Research Findings

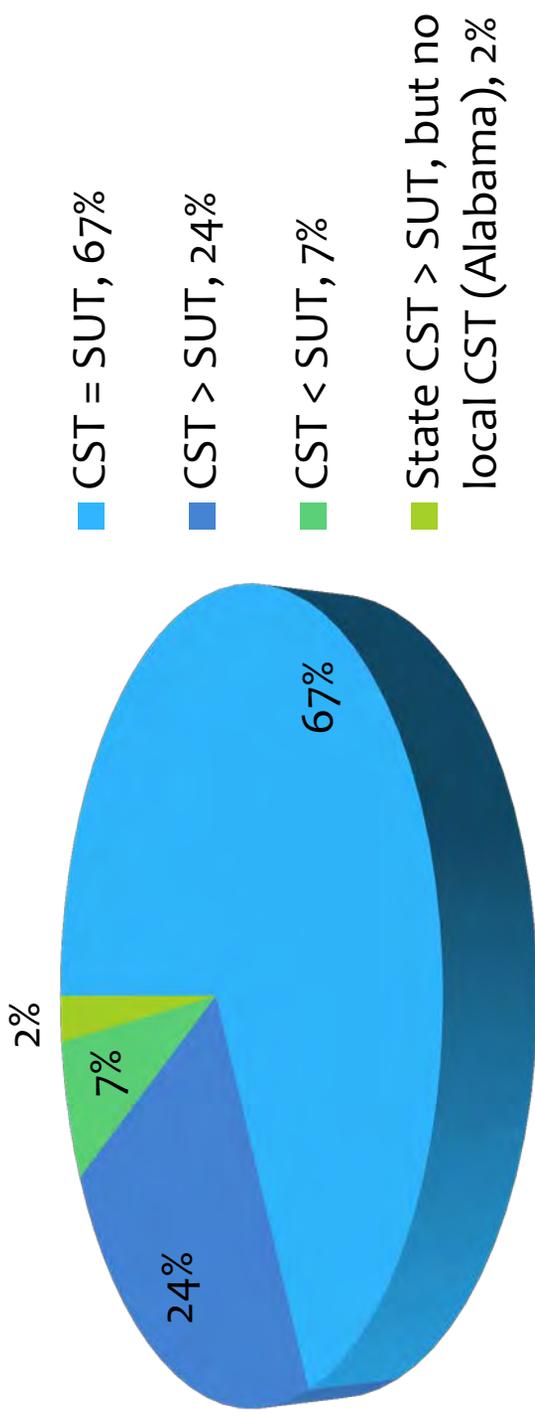
Overall Survey & Research Findings – Rates

Of the 46 jurisdictions other than Florida:

- * Four jurisdictions generally had a higher tax rate on communications services.
 - * Washington D.C. – higher state rate
 - * Maryland – higher local rate
 - * New York – higher local rate
 - * California – higher local and total rate
- * Fifteen states had a communications services tax rate different from their general sales tax rate (11 had higher communications services tax rates, 3 had higher sales tax rates)
- * Florida had one of the largest variance in rates across taxable services (2.37% to 16.29%). At least 13 states had no variance in rates across taxable services.

Overall Survey & Research Findings - Rates

Jurisdictions



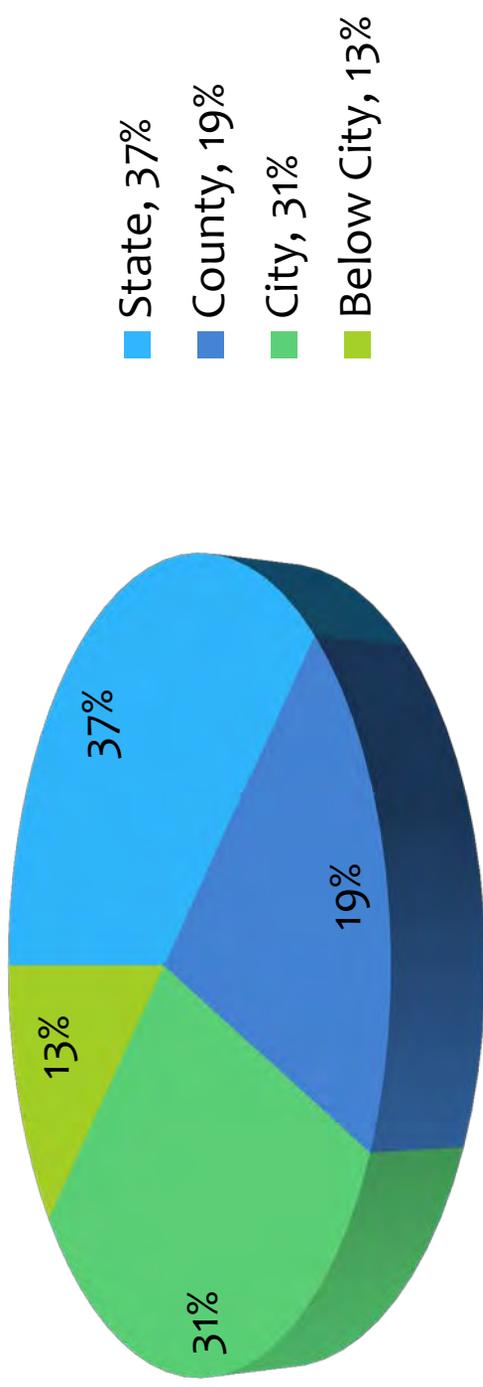
Overall Survey & Research Findings - Sourcing

Of the 32 states other than Florida:

- * Twelve states source to the state level.
- * Six states source to the county level.
- * Ten states source to the city level.
- * Four states source below the city level.

Overall Survey & Research Findings - Sourcing

Sourcing Level



Overall Survey & Research Findings - Sourcing

Distribution



Overall Survey & Research Findings - Prepaid

Of the 39 jurisdictions other than Florida:

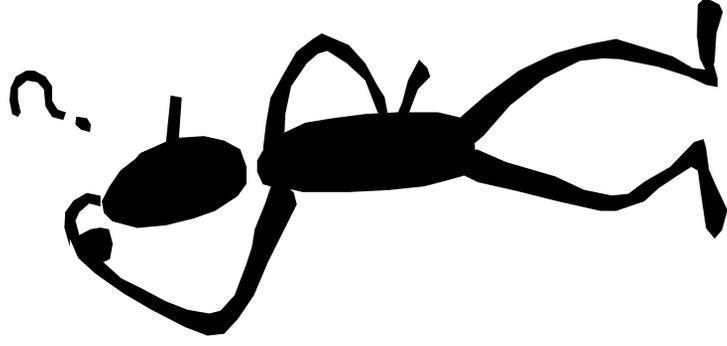
- * Twenty-four states use the definitions found in the Streamline Sales and Use Tax Agreement.
- * Twenty-six states tax prepaid services solely by sales and use tax.
- * One state taxes prepaid services solely by communications services tax.
- * One state taxes prepaid services solely by a gross receipts tax.
- * Seven states tax prepaid services as a mix of sales and use tax and other taxes.
- * Four jurisdictions tax prepaid services as a mix of sales and use tax or not subject to tax at all.

Overall Survey & Research Findings - Prepaid

Prepaid Treatment



Questions



Florida Communications Services Tax Overview

In 2000, the Florida Legislature enacted the communications services tax (CST), Chapter 202, Florida Statutes, effective October 1, 2001. This new law simplified and restructured numerous state and local taxes and fees imposed on communications services into a single tax centrally administered by the Department of Revenue.

Some examples of services subject to the tax are:

- Local, long distance or toll telephone (but not coin-operated).
- Cable television.
- Direct-to-home satellite.
- Mobile communications.
- Private line services.
- Telephone charges made to guests by a hotel or motel.
- Facsimiles (FAX).
- Telex, telegram, and teletype.

Tax Rates

Florida Portion

The State portion of the tax is imposed at the rate of 6.65 percent. The State portion of the tax is collected with the gross receipts tax rate of 2.37 percent and 0.15 percent (imposed per Chapter 203, F.S.), for a combined Florida communications services tax rate of 9.17 percent.

Local Portion

Each local taxing jurisdiction (municipality, charter county, or unincorporated county) has a specific local tax rate. As of January 1, 2012, there were 481 separate jurisdictions. The local rates range from 0% to 7.12% with a weighted average of 5.04% in 2011.

Direct-to-home satellite service is taxed at a state rate of 10.8 percent plus 2.37 percent gross receipts tax for a total of 13.17 percent. The local component of the state communications services tax does not apply to these services.

Informing the Customer

Dealers must itemize and separately state taxes on customer's bills. The taxes must be identified as Florida communications services tax and local communications services tax, respectively.

Partial Exemption for Some Residential Services

Communications services sold to a residential household are exempt from the rate of 6.65 percent state tax and the rate of 0.15 percent gross receipts tax. Residential service is subject to the rate of 2.37 percent gross receipts tax and any applicable local tax. This partial exemption does not apply to the sale of mobile communications service, cable service, direct-to-home

satellite service, or any residence that constitutes all or part of a transient public lodging establishment as defined in Chapter 509, Florida Statutes.

Other Exemptions from the Tax

- Sales for resale.
- Sales to Federal agencies, the state, any county or municipality, or other political subdivision.
- Sales to religious and educational organizations with 501(c)(3), I.R.C. status.
- Sales to certain homes for the aged with 501(c)(3), I.R.C. status.

Services Not Subject to the Tax

- Internet access services (such as, electronic mail services, electronic bulletin board services or similar on-line computer services).
- Information services (such as, electronic publishing, web-hosting service, or end-user 900-number service).
- The sale or recharge of prepaid calling arrangements (these services are subject to the Florida Sales and Use Tax).
- The sale or lease of tangible personal property (also subject to the Florida Sales and Use Tax).

Sourcing Customers

The law requires sellers of communications services to apply the correct local government rate based on the service address . The communications dealer must bill and remit the local tax properly to assure that local governments will receive the appropriate distribution related to services provided within their boundaries.

The Department maintains the master database that assigns Florida addresses to local taxing jurisdictions. This database is based on information provided by local taxing jurisdictions and is updated every six months.

Certification

Dealer or vendor databases can be certified for their accuracy of assignment of street addresses to the proper jurisdiction. Dealers or database vendors can request certification, and if approved by the Department, then Dealers who exercise due diligence will be held harmless from situsing errors and can be eligible for an enhanced collection allowance.

Collection Allowance

For the purpose of compensating dealers providing communications services for the keeping of prescribed records, the filing of timely tax returns, and the proper accounting and remitting of communications services taxes and gross receipts taxes, dealers are allowed to deduct a general credit equal to 0.25% of the tax due on each return. Dealers that use a qualifying method, such as a certified database or a direct-to-home satellite provider, receive an enhanced credit equal to 0.75% of the tax due on each return.

Florida Communications Services Tax Working Group
State Survey

	Florida	Alabama	Arkansas	Connecticut
Does the state impose a tax on the sale of communication services?	Y	Y	Y	Y
Is the tax separate from sales tax?	Y	Y ₃	N ₄	N
Who administers the tax?	State	State	State	State
Whom is the tax imposed on?	Consumer	Provider	Provider	Consumer
Are the following services subject to the tax on communications?				
Residential Wired Line Telephone Service	Y (CST)	Y (GR)	Y	Y
Commercial Wired Line Telephone Service	Y (CST)	Y (GR)	Y	Y
Mobile Communications Service	Y (CST)	Y (Mob Tele)	Y	Y
Voice Over Internet Protocol Service (VoIP)	Y (CST)	Y (GR)	Y	Y
Cable Television Service	Y (CST)	N	Y	Y
Direct-to-home satellite television service	Y (CST)	N	Y	Y
Prepaid Services (see Question 4)	Y (SUT)	Y (SUT)	Y	Y
Digital Goods	N	Y (SUT)	N	Y ₅
Digital Services	N	N	N	Y ₅
What state tax rate is imposed?				
Telecom Rate the same Sales Tax?	N	N	Y	Y
Sales and Use Tax	6%	4%	6%	6.35%
Residential Wired Line Telephone Service	2.37%	6%	6%	6.35%
Commercial Wired Line Telephone Service	9.17%	6%	6%	6.35%
Mobile Communications Service	9.17%	6%	6%	6.35%
Voice Over Internet Protocol Service (VoIP)	9.17%	6%	6%	6.35%
Cable Television Service	9.17%	None	6%	6.35%
Direct-to-home satellite television service	13.17%	None	6%	6.35%
Prepaid Services (see Question 4)	6%	4%	6%	6.35%
Digital Goods	None	4%	None	1% ₆
Digital Services	None	None	None	1%
Variance between services	2.37% to 13.17%	4% to 6%	None	1% to 6.35%
What local tax rate is imposed?				
Telecom Rate the same Sales Tax?	N	N	Y	
Sales and Use Tax	0% to 1.5%	1% to 7%	0.5% - 3.5%	
Residential Wired Line Telephone Service	0% to 7.12%, Avg 5.04%	None	0.5% - 3.5%	
Commercial Wired Line Telephone Service	0% to 7.12%, Avg 5.04%	None	0.5% - 3.5%	
Mobile Communications Service	0% to 7.12%, Avg 5.04%	None	0.5% - 3.5%	
Voice Over Internet Protocol Service (VoIP)	0% to 7.12%, Avg 5.04%	None	0.5% - 3.5%	
Cable Television Service	0% to 7.12%, Avg 5.04%	None	0.5% - 3.5%	
Direct-to-home satellite television service	None	None	None	
Prepaid Services (see Question 4)	0% to 1.5%	1% to 7%	0.5% - 3.5%	
Digital Goods	None	1% to 7%	None	
Digital Services	None	None	None	
Variance between services	0% to 7.12%	None	None	
What level is the local rate?	County and City	State	County and City	
How is the rate distributed?	Actual		Actual	
Is the communications tax situated to the customer's location?	Y	Y	Y	
Is the communications tax situated to the retailer or provider's location?	N	N	N	
Prepaid				
Prepaid phone cards	Sales Tax	Sales	Sales Tax	Sales
New prepaid wireless plans	Comm. Services Tax	Sales	Sales / Comm Tax	Sales
Recharge of prepaid wireless plans	Comm. Services Tax	Sales	Sales Tax	Sales
Prepaid wireless plan bundled with tangible personal property (phone)	Comm. Services Tax ₁	Sales	Sales Tax	Sales
Who collects and remits the tax?	Retailer	Retailer	Retailers and Provider	Dealer
Are prepaid situated to customer?	Y	N	Y	
Are prepaid situated to retailer/provider?	Y ₂	Y	N	
Does your state allow bundled transactions?	Y	Y	Y	N

Florida Communications Services Tax Working Group
State Survey

	DC	Georgia	Hawaii	Indiana	Iowa
Does the state impose a tax on the sale of communication services?	Y	Y	Y	Y	Y
Is the tax separate from sales tax?	Y	N	Y ₉	Y ₁₁	N
Who administers the tax?	State	State	State	State	State
Whom is the tax imposed on?	Consumer	Both	Provider	Both (SUT/GR)	Consumer
Are the following services subject to the tax?					
Residential Wired Line Telephone Service	Y	Y	Y	Y	Y
Commercial Wired Line Telephone Service	Y	Y	Y	Y	Y
Mobile Communications Service	Y	Y	Y	Y	Y
Voice Over Internet Protocol Service (VoIP)	N	N	Y	N	Y
Cable Television Service	Y	N	Y	N	Y
Direct-to-home satellite television service	Y	N	Y	N	Y
Prepaid Services (see Question 4)	Y	N	Y	Y	Y
Digital Goods	Y	N	Y	N	N
Digital Services	N	N	Y	N	N
What state tax rate is imposed?					
Telecom Rate the same Sales Tax?	N	Y	Y	N	Y
Sales and Use Tax	6.00%	4%	4%	7%	6%
Residential Wired Line Telephone Service	10.00%	4%	4%	8.40%	6%
Commercial Wired Line Telephone Service	11.00%	4%	4%	8.40%	6%
Mobile Communications Service	10% or 11% ₇	4%	4%	8.40%	6%
Voice Over Internet Protocol Service (VoIP)	None	None	4%	7%	6%
Cable Television Service	10% or 11% ₇	None	4%	7%	6%
Direct-to-home satellite television service	10% or 11% ₇	None	4%	7%	6%
Prepaid Services (see Question 4)	10.00%	None	4% or 4.5%	7%	6%
Digital Goods	6%	None	4%	None	None
Digital Services	None	None	4%	None	None
Variance between services	6% to 11%	None	4% to 4.5%	7% to 8.40%	None
What local tax rate is imposed?					
Telecom Rate the same Sales Tax?		Y	Y		Y
Sales and Use Tax		2% - 4%	0.50%		0 - 1%
Residential Wired Line Telephone Service		2% - 4%	0.50%		0 - 1%
Commercial Wired Line Telephone Service		2% - 4%	0.50%		0 - 1%
Mobile Communications Service		2% - 4%	0.50%		0 - 1%
Voice Over Internet Protocol Service (VoIP)		None	0.50%		0 - 1%
Cable Television Service		None	0.50%		0 - 1%
Direct-to-home satellite television service		None	0.50%		0 - 1%
Prepaid Services (see Question 4)		None	0.50% or none		0 - 1%
Digital Goods		None	0.50%		None
Digital Services		None	0.50%		None
Variance between services		None	None		None
What level is the local rate?		County	County		County and City
How is the rate distributed?		Actual			Actual
Is the communications tax situated to the customer's location?	Y	Y		Y	Y
Is the communications tax situated to the retailer or provider's location?	N	N		N	Y
Prepaid					
Prepaid phone cards	Sales	None	GET	Sales	Sales
New prepaid wireless plans	None	None	GET	Sales	Sales
Recharge of prepaid wireless plans	None	None	GET	Sales	Sales
Prepaid wireless plan bundled with tangible personal property (phone)		Sales ₈	GET	Sales	Sales
Who collects and remits the tax?		Dealer	Retailer	Retailer	Retailer
Are prepaid situated to customer?	Y	Y ₈	Y	N	Y
Are prepaid situated to retailer/provider?	N		Y ₁₀	Y	Y
Does your state allow bundled transactions?		Y	Y	Y	Y

Florida Communications Services Tax Working Group
State Survey

	Kentucky	Louisiana	Maryland	Mass.	Michigan
Does the state impose a tax on the sale of communication services?	Y ₁₂	Y	Y ₁₉	Y	Y ₂₆
Is the tax separate from sales tax?	Y	N	N	Y ₂₃	N
Who administers the tax?	State	State	State	State	State
Whom is the tax imposed on?	Both	Consumer	Consumer ₁₉	Both	Consumer
Are the following services subject to the tax?					
Residential Wired Line Telephone Service	Y	Y	N	Y	Y
Commercial Wired Line Telephone Service	Y	Y	N	Y	Y
Mobile Communications Service	Y	Y	Y	Y	Y
Voice Over Internet Protocol Service (VoIP)	Y	Y	N	Y	Y
Cable Television Service	Y	Y	Y (PPV)	N	N
Direct-to-home satellite television service	Y	Y	Y (PPV)	Y ₂₄	N
Prepaid Services (see Question 4)	Y	Y	Y	Y	Y
Digital Goods	Y	N	N	N	N
Digital Services	Y	N	N	N	N
What state tax rate is imposed?					
Telecom Rate the same Sales Tax?	N	N	Y	Y	Y
Sales and Use Tax	6%	4% ₁₅	6%	6.25%	6%
Residential Wired Line Telephone Service	6%; 1.3%	3% ₁₅	None	6.25%	6%
Commercial Wired Line Telephone Service	6%; 1.3%	3% ₁₅	6%	6.25%	6%
Mobile Communications Service	6%; 1.3%	3% ₁₅	6%	6.25%	6%
Voice Over Internet Protocol Service (VoIP)	6%; 1.3%	3% ₁₅	None	6.25%	6%
Cable Television Service	6%; 2.4%	None	6%	None	None
Direct-to-home satellite television service	6%; 2.4%	None	6%	5%	None
Prepaid Services (see Question 4)	6%; 1.3%	3% ₁₅	6%	6.25%	6%
Digital Goods	6%; 1.3%	3% ₁₅	None	None	None
Digital Services	6%; 1.3%	3% ₁₅	None	None	None
Variance between services	6% to 8.4%	3% to 4%	None	5% to 6.25%	None
What local tax rate is imposed?					
Telecom Rate the same Sales Tax?	Y	N	N	Y	Y
Sales and Use Tax	up to 3% ₁₃	Varies, Avg 5%	None	None	None
Residential Wired Line Telephone Service	up to 3% ₁₃	None	8% ₂₀	None	None
Commercial Wired Line Telephone Service	up to 3% ₁₃	None	8% ₂₀	None	None
Mobile Communications Service	up to 3% ₁₃	None	8% ₂₀	None	None
Voice Over Internet Protocol Service (VoIP)	up to 3% ₁₃	None	None	None	None
Cable Television Service	up to 3% ₁₃	None	0%-5%	None	None
Direct-to-home satellite television service	up to 3% ₁₃	None	None	None	None
Prepaid Services (see Question 4)	up to 3% ₁₃	None	None	None	None
Digital Goods	up to 3% ₁₃	None	None	None	None
Digital Services	up to 3% ₁₃	None	None	None	None
Variance between services	None	None	8% ₂₀	None	None
What level is the local rate?	School Dist.	State	County	State	State
How is the rate distributed?	Actual	N/A	Local Admin	N/A	N/A
Is the communications tax situated to the customer's location?	Y	Y	Y	Y	Y
Is the communications tax situated to the retailer or provider's location?	N	N	Y ₂₁	N	N
Prepaid					
Prepaid phone cards	Sales	Sales ₁₆	Sales	Sales	Sales
New prepaid wireless plans	Sales/Comm	None	Sales	Sales	Sales
Recharge of prepaid wireless plans	Sales/Comm	None	Sales	Sales	Sales
Prepaid wireless plan bundled with tangible personal property (phone)	Sales/Comm	Sales	Sales	Sales	Sales
Who collects and remits the tax?	Retailer	Retailer ₁₇	Dealer	Dealer	Both ₂₇
Are prepaid situated to customer?	Y ₁₄	Y ₁₈	Y	N	N
Are prepaid situated to retailer/provider?	Y ₁₄	Y	Y ₂₂	Y	Y
Does your state allow bundled transactions?	Y	N	N	N ₂₅	Y

Florida Communications Services Tax Working Group
State Survey

	Missouri	Nebraska	Nevada	New Jersey
Does the state impose a tax on the sale of communication services?	Y	Y	N	Y
Is the tax separate from sales tax?	N	Y		N
Who administers the tax?	State	Both		State
Whom is the tax imposed on?	Provider	Consumer		Consumer
Are the following services subject to the tax?				
Residential Wired Line Telephone Service	Y	Y		Y
Commercial Wired Line Telephone Service	Y	Y		Y
Mobile Communications Service	Y	Y		Y
Voice Over Internet Protocol Service (VoIP)	Y	Y		Y
Cable Television Service	N	Y		N
Direct-to-home satellite television service	N	Y		N
Prepaid Services (see Question 4)	Y	Y		Y
Digital Goods	N	Y		Y ₃₁
Digital Services	N	N		
What state tax rate is imposed?				
Telecom Rate the same Sales Tax?	Y	Y		Y
Sales and Use Tax	4.225%	5.500%		7%
Residential Wired Line Telephone Service	4.225%	5.500%		7%
Commercial Wired Line Telephone Service	4.225%	5.500%		7%
Mobile Communications Service	4.225%	5.500%		7%
Voice Over Internet Protocol Service (VoIP)	4.225%	5.500%		7%
Cable Television Service	None	5.500%		None
Direct-to-home satellite television service	None	5.500%		None
Prepaid Services (see Question 4)	4.225%	5.500%		7%
Digital Goods	None	5.500%		7%
Digital Services	None	None		None
Variance between services	None	None		None
What local tax rate is imposed?				
Telecom Rate the same Sales Tax?	Y	Y		Y
Sales and Use Tax	0.5% to 6.625%	0.5%, 1%, 1.5%		None
Residential Wired Line Telephone Service	0.5% to 6.625%	0.5%, 1%, 1.5%		None
Commercial Wired Line Telephone Service	0.5% to 6.625%	0.5%, 1%, 1.5%		None
Mobile Communications Service	0.5% to 6.625%	0.5%, 1%, 1.5%		None
Voice Over Internet Protocol Service (VoIP)	0.5% to 6.625%	0.5%, 1%, 1.5%		None
Cable Television Service	None	0.5%, 1%, 1.5%		None
Direct-to-home satellite television service	None	0.5%, 1%, 1.5%		None
Prepaid Services (see Question 4)	0.5% to 6.625%	0.5%, 1%, 1.5%		None
Digital Goods	None	0.5%, 1%, 1.5%		None
Digital Services	None	None		None
Variance between services	0.5% to 6.625%	0.5% to 1.5%		None
What level is the local rate?	County and City	County and City		State
How is the rate distributed?	Actual ₂₈	Actual		N/A
Is the communications tax situated to the customer's location?	Y	Y		Y
Is the communications tax situated to the retailer or provider's location?	N	N		N
Prepaid				
Prepaid phone cards	Sales	Sales		Sales
New prepaid wireless plans	Sales	Sales		Sales
Recharge of prepaid wireless plans	Sales	Sales		Sales
Prepaid wireless plan bundled with tangible personal property (phone)	Sales	Sales		Sales
Who collects and remits the tax?	Both ₂₉	Dealer		Retailer
Are prepaid situated to customer?	N	Y ₃₀		Y ₃₂
Are prepaid situated to retailer/provider?	Y	Y ₃₀		Y ₃₂
Does your state allow bundled transactions?	Y	Y		Y

Florida Communications Services Tax Working Group
State Survey

	New York	Oregon	South Carolina	Texas
Does the state impose a tax on the sale of communication services?	Y ³³	N ³⁵	Y	Y
Is the tax separate from sales tax?	Y/N		N	N
Who administers the tax?	Both			State
Whom is the tax imposed on?	Consumer		Provider	Provider
Are the following services subject to the tax?				
Residential Wired Line Telephone Service	Y		Y	Y
Commercial Wired Line Telephone Service	Y		Y	Y
Mobile Communications Service	Y		Y	Y
Voice Over Internet Protocol Service (VoIP)	Y		Y	Y
Cable Television Service	N		Y	Y (Separate)
Direct-to-home satellite television service	N		Y	Y
Prepaid Services (see Question 4)	Y		Y	Y
Digital Goods	N		N	Y
Digital Services	N		N	Y ³⁹
What state tax rate is imposed?				
Telecom Rate the same Sales Tax?	Y		Y	Y
Sales and Use Tax	4 - 6.5%		6%	6.25%
Residential Wired Line Telephone Service	4 - 6.5%		6%	6.25%
Commercial Wired Line Telephone Service	4 - 6.5%		6%	6.25%
Mobile Communications Service	4 - 6.5%		6%	6.25%
Voice Over Internet Protocol Service (VoIP)	4 - 6.5%		6%	6.25%
Cable Television Service	None		6%	6.25%
Direct-to-home satellite television service	None		6%	6.25%
Prepaid Services (see Question 4)	4 - 6.5%		6%	6.3%
Digital Goods	None		None	6.25%
Digital Services	None		None	6.25%
Variance between services	None		None	None
What local tax rate is imposed?				
Telecom Rate the same Sales Tax?	Y		Y	Y
Sales and Use Tax	3% - 8%		1%-3% ⁶³⁶	up to 2%
Residential Wired Line Telephone Service	3% - 8%		1%-3% ⁶³⁶	up to 2% ⁶⁴⁰
Commercial Wired Line Telephone Service	3% - 8%		1%-3% ⁶³⁶	up to 2% ⁶⁴⁰
Mobile Communications Service	3% - 8%		1%-3% ⁶³⁶	up to 2% ⁶⁴⁰
Voice Over Internet Protocol Service (VoIP)	3% - 8%		1%-3% ⁶³⁶	up to 2% ⁶⁴⁰
Cable Television Service	None		1%-3% ⁶³⁶	up to 2% ⁶⁴⁰
Direct-to-home satellite television service	None		None	None
Prepaid Services (see Question 4)	3% - 4.5%		1%-3% ⁶³⁶	up to 2% ⁶⁴⁰
Digital Goods	None		None	up to 2%
Digital Services	None		None	up to 2%
Variance between services	3% to 8%		None	None
What level is the local rate?	County, City, School Dis		County	County, City, SPD
How is the rate distributed?	Actual		Actual ³⁷	Actual
Is the communications tax situated to the customer's location?	Y		Y	Y
Is the communications tax situated to the retailer or provider's location?	N		N	N
Prepaid				
Prepaid phone cards	Sales		Sales	Sales
New prepaid wireless plans	Sales/Excise		Sales	Communications
Recharge of prepaid wireless plans	Sales/Excise		Sales	Communications
Prepaid wireless plan bundled with tangible personal property (phone)	Sales/Excise/ Gross Receipts		Sales	Sales
Who collects and remits the tax?	Retailer		Dealer	Dealer
Are prepaid situated to customer?	Y		Y ³⁸	Y ⁴¹
Are prepaid situated to retailer/provider?	Y		Y ³⁸	Y ⁴¹
Does your state allow bundled transactions?	Y ³⁴		Y	Y

Florida Communications Services Tax Working Group
State Survey

	Utah	Virginia	Washington	West Va.	Wyoming
Does the state impose a tax on the sale of communication services?	Y ₄₂	Y ₄₆	Y ₄₇	Y ₅₀	Y ₅₃
Is the tax separate from sales tax?	Y	Y	N	N	Y
Who administers the tax?	State	State	State	State	State
Whom is the tax imposed on?	Consumer	Consumer	Both ₂	Consumer	Consumer
Are the following services subject to the tax?					
Residential Wired Line Telephone Service	Y	Y	Y(RST)	N	Y
Commercial Wired Line Telephone Service	Y	Y	Y(RST)	N	Y
Mobile Communications Service	Y	Y	Y(RST)	N	Y
Voice Over Internet Protocol Service (VoIP)	Y	Y	Y(RST)	N	Y
Cable Television Service	Y ₄₃	Y	Y(B&O) ₄₈	Y	N
Direct-to-home satellite television service	Y ₄₃	Y	Y(B&O) ₄₈	N	N
Prepaid Services (see Question 4)	Y	N	Y(RST)	Y	Y
Digital Goods	Y	N	Y(RST)	N	Y
Digital Services	Y	N	Y(RST)	N	N
What state tax rate is imposed?					
Telecom Rate the same Sales Tax?	Y	Y	Y	N	Y
Sales and Use Tax	4.7%	5%	6.5%	6%	4%
Residential Wired Line Telephone Service	4.7%	5%	6.5%	None	4%
Commercial Wired Line Telephone Service	4.70%	5%	6.5%	None	4%
Mobile Communications Service	4.7%	5%	6.5%	None	4%
Voice Over Internet Protocol Service (VoIP)	4.7%	5%	6.5%	None	4%
Cable Television Service	6.25%	5%	0.471% ₄₈	6%	None
Direct-to-home satellite television service	6.25%	5%	0.471% ₄₈	None	None
Prepaid Services (see Question 4)	4.7%	None	6.5%	6%	4%
Digital Goods	4.7%	None	6.5%	None	4%
Digital Services	4.7%	None	6.5%	None	None
Variance between services	4.7% to 6.25%	0% to 5%	0.471% to 6.5%	None	None
What local tax rate is imposed?					
Telecom Rate the same Sales Tax?	Y	Y	Y	Y	Y
Sales and Use Tax	1.25% - 3.65%	None	1-3%	1% ₅₁	0-3%
Residential Wired Line Telephone Service	1.25% - 3.65%	None	1-3%	None	0-3%
Commercial Wired Line Telephone Service	1.25% - 3.65%	None	1-3%	None	0-3%
Mobile Communications Service	1.25% - 3.65%	None	1-3%	None	0-3%
Voice Over Internet Protocol Service (VoIP)	1.25% - 3.65%	None	1-3%	1% ₅₁	0-3%
Cable Television Service	None	None	None ₄₈	1% ₅₁	None
Direct-to-home satellite television service	None	None	None ₄₈	None	None
Prepaid Services (see Question 4)	1.25% - 3.65%	None	1-3%	1% ₅₁	0-3%
Digital Goods	1.25% - 3.65%	None	1-3%	None	0-3%
Digital Services	1.25% - 3.65%	None	1-3%	None	None
Variance between services	1.25% to 6.2%	None	1-3%	None	None
What level is the local rate?	County and City	State	County and City	City	County
How is the rate distributed?	Actual & Pop ₄₄	N/A	Actual	Actual	Actual
Is the communications tax sited to the customer's location?	Y	Y	Y ₄₉	Y(cable)	Y
Is the communications tax sited to the retailer or provider's location?	N	N	N ₄₉	Y(ppwireless)	N
Prepaid					
Prepaid phone cards	Sales	Sales	Sales/B&O	Sales ₅₂	Sales
New prepaid wireless plans	Sales/Comm	None	Sales/B&O	Sales ₅₂	Sales
Recharge of prepaid wireless plans	Sales/Comm	None	Sales/B&O	Sales ₅₂	Sales
Prepaid wireless plan bundled with tangible personal property (phone)	Sales/Comm	Sales	Sales/B&O	Sales ₅₂	Sales
Who collects and remits the tax?	Provider-18	Providers	Dealer	Retailer	Provider
Are prepaid sited to customer?	Y ₄₅	N	Y	N	Y
Are prepaid sited to retailer/provider?	Y ₄₅	Y	Y	Y	N
Does your state allow bundled transactions?	Y	Y	Y	Y	Y

Notes

This survey does not reflect E911 fees.

- 1 The tangible items could be subject to Sales Tax if unbundled in the dealers books and records.

- 2 If the sales takes place at dealers location.
Sales Tax is levied under Code of Alabama 1975, Title 40, Chapter 23, Article 1, Utility Tax is levied under Code of Alabama 1975, Title 40, Chapter 21, Articles 2, 3, 4, and Mobile Telecommunication Tax is levied under Code of Alabama 1975, Title 40, Chapter 21, Article 5.

- 4 There are also local franchise taxes, fees levied to support 911 programs and other specific programs.
Taxed at 1% as computer services under Conn. Gen. Stat. § 12-407(a)(37)(A) unless tangible personal property is included, in which case taxable at 6.35%. See Policy Statement 2004(2), Sales and Use Taxes on Internet Access Services and On-Line Sales of Goods and Services, and PS 2006(8), Sales and Use Taxes on Computer-Related Services and Sales of Tangible Personal Property. Computer and data processing services taxable at 1% Conn. Gen. Stat. § 12-407(a)(37)(A); see Policy Statement 2004(2), Sales and Use Taxes on Internet Access Services and On-Line Sales of Goods and Services, and PS 2006(8), Sales and Use Taxes on Computer-Related Services and Sales of Tangible Personal Property.

- 6 If TPP involved taxed at 6.35%.

- 7 The District of Columbia imposes a tax on gross receipts from sales included on bills of 11% for non-residential customers and 10% for residential customers. (DC ST 47-2501(2)).
If the sale is taxable due to bundling a plan with tangible personal property, the tax is generally situated to the location where the customer receives the tangible personal property.

- 8 Public Service Tax and General Excise Tax.
If the sale or recharge of a prepaid telephone calling service does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address; or if there is no item shipped, then it shall be the customer's billing address.

- 10 When a person licensed under this chapter sells prepaid telephone calling services to a licensed retail merchant, jobber, or other licensed seller for purposes of resale, the person shall be taxed as a wholesaler selling tangible personal property. All other sales of prepaid telephone calling services shall be taxed as retail sales of tangible personal property.

- 11 7% sales tax imposed on intrastate telecommunications services, with mobile communications sourced to the address of the user. There is also a 1.4% utility receipts tax which is a gross income tax imposed on the provider.

- 12 Kentucky has a 3% excise tax on multichannel video & audio programming; 2.4% gross revenues tax on multichannel video & audio programming providers; 1.3% gross revenues tax on telecommunications providers; 6% sales tax on communications services; up to 3% utility gross receipts tax on communications service for local school districts.
13 159 of the 175 school districts impose the tax. One applies a 2.5% rate with all others at 3%.

- 14 If sold over the counter sourced to retailer; otherwise to customer based upon sourcing hierarchy.
The state sales tax rate on sales of tangible personal property, leases, rentals, and services -- other than telecommunications services -- is 4%. The state sales tax rate on telecommunication services is 3%. Local sales tax rates in Louisiana vary from jurisdiction to jurisdiction, but average about 5% in most parishes. Cameron is the only parish in Louisiana where no local sales and use taxes are levied. State law does not permit te levy of local sales taxes on telecommunication services.

- 16 Sellers collect and remit the tax. In cases of prepaid phone cards where the funds will be added to a billing account that the purchaser maintains in his name with a telecommunication provider, the cards are not taxed at the point of sale, but are taxed through the telecommunication providers' billing accounts for each customer. Other prepaid card sales are taxed by retailers.

- 17 Accounts that are maintained with the telecom provider are not taxed at the point of sale, but based on the billing accounts for each customer.

- 18 Sellers collect and remit tax. If funds are added to an existing account maintained w/ a telecom provider, card taxed through billing account for customer. Other prepaid cards are taxed by retailer.

19	There is a public service company franchise tax of 2% on gross receipts of public service companies engaged in a telephone business in the state. Exemptions exist.
20	Five (of 24) counties have a telephone tax, with rates varying from \$2.00 to \$3.50 per line or an 8% sales tax (most include residential lines and wireless). Administered locally by indi counties.
21	Tax sitused to the retailer for sales from retail outlets.
22	When sold over the counter.
23	The Massachusetts sales and use tax, General Laws Chapter 64H and 64I, is imposed on tangible personal property, certain items deemed to be tangible personal property, such as gas, steam, electricity, and downloaded prewritten software, and telecommunications services.
24	Direct broadcast television is subject to a separate gross receipts tax under G.L. c. 64M.
25	Except Internet access.
26	Imposes a use tax on telecommunications.
27	Sales of TPP and prepaid sales are collected by the retailer. Monthly service payments are collected by communications providers.
28	Actual collections sitused to each jurisdiction and distribution formulas for certain taxes.
29	Sales by the provider are sitused to the customer's location. Sales by a retailer are sitused to the retailer's location.
30	The sale of prepaid calling services is subject to tax at the retailer's business location in the case of calling cards, or at the customer's address for sales of other prepaid calling services paid for with a credit card.
31	Specified digital product means electronically transferred digital audio-visual work, digital audio work, or digital book; digital code that provides right to obtain the product treated in same manner as product.
32	Depends on where the product is received by the customer. See NJSA 54:32B-3.4(c)(3).
33	State and local sales tax applies to telephone service, excluding interstate and international. Telecom excise tax applies to service that originate or terminat and are provided to a NY service address. Gross receipts tax locally imposed applies to telecom. 911 and other fess apply.
34	Internet access - guidance pending regarding other items/services.
35	Oregon imposes an emergency 911 tax on phone service if the phone has access to 911 system. Answers to the survey are based on the 911 tax.
36	Most local taxes are imposed at a rate of 1%; however, some may be imposed at at fractional rates up to 1%. Presently, all local sales and use taxes that are being imposed are at a rate of 1%, except one that is imposed at 1/2 of 1%. In addition, some jurisdiction impose more than one type of local sales and use tax.
37	Most local taxes are distributed based on where actual sales occur; however, some local taxes are distributed by a formula.
38	All charges for prepaid wireless calling arrangements must be sourced to the (i) location in this State where the over-the-counter sale took place; (ii) shipping address if the sale did not take place at the seller's location and an item is shipped; or (iii) either the billing address or location associated with the mobile telephone number if the sale did not take place at the seller's location and no item is shipped.
39	Texas imposes tax on both data processing and information services. Tax is only imposed upon 80% of the value of the service.
40	Only on intrastate calls.
41	It depends upon both the item purchased and the manner in which it is purchased. Prepaid telephone calling cards are taxed as tangible personal property. Tax is based upon the location where the card was purchased. Rule 3.344(h)(5). Prepaid wireless plans sold over the telephone or Internet are taxed based upon the primary address of the purchaser (provided it is in Texas). If the sale occurs in Texas in person, however, the seller must collect tax based on the seller's business address.
42	Sales tax per Utah Annotated Code Section 59-12-103; Local Option Sales Tax per Utah Annotated Code Section 59-12-204; Municipal Telecommunications Tax per Utah Annotated Code Section 10-1-404; State 911 and Local 911 and Poison Control Fee per Utah Code Section 69-2-5; Utah Universal Service Fund and the Telecommunication Relay Service Fund.
43	Subject to Multichannel tax.
44	50% of the local is distributed by population statewide, the other 50% is distributed based on the situs.

45 Generally the telecommunication provider collects tax. However, the sales tax for the initial sale of a prepaid mobile telecommunication service and equipment is collected at the retail level.

46 A sales and use tax on customers of communications services in the amount of 5% of the sales price of each communications service that is sourced to the Commonwealth, which the answers to this survey address. The Commonwealth also has 3 E-911 Fees: 1) A prepaid wireless E-911 fee of \$0.50 on each retail purchase of prepaid wireless calling service.; 2) A surcharge of \$0.75 per month collected by wireless service carriers and resellers from each of its postpaid customers ; and 3) A tax of \$0.75 per access line per month imposed on customers of landline telephone service. These taxes are not addressed in the answers to this survey.

47 Washington imposes a retail sales tax("RST") on the retail sale of telecommunications services (FN 3) (RCW 82.08.020(1); RCW 82.04.050(5); RCW 82.04.065(27)). Washington also collects the local RST which is imposed on the same sale. RCW 82.14 et seq. Washington also imposes a gross receipts/business and occupations-(B&O) tax on gross receipts received from providing telecommunications services (RCW 82.04.250; RCW 82.04.050(5); RCW 82.04.065(27). RST is imposed on consumer and B&O is imposed on provider. Note: Other local taxes may also apply , but these taxes are locally administered and are not described in this survey response.

48 RST (6.5%)may apply for on-demand movies and other digital goods. However, cable and satellite TV are not telecommunications.

49 Often sourced to the customer's location, but depends on telecom service type. See RCW 82.32.520, RCW 82.04.535, and RCW 82.04.530 for sales sourcing and allocation.

50 West Virginia imposes its Consumer Sales and Service Tax (W. Va. Code §11-15-1 et seq.) on a limited range of communications services (e.g., cable television and the sale of prepaid wireless service). A separate Telecommunications Tax levied via W. Va. Code §11-13B-1 et seq was repealed effective March 2012.

51 Only two counties impose local tax.

52 Mobile wireless only.

53 Intrastate only.

Florida Communications Services Tax Working Group
Follow-Up State Research

	Florida	Alaska	Arizona	California	Colorado
Does the state impose a tax on the sale of communication services?	Yes	Yes	Yes	Yes	Yes
Examples	Intrastate and interstate telephone, mobile, cable, satellite		Intrastate	Intrastate	Intrastate Phone Only
What rate are communication services taxed at?	State: 2.37%, 9.17%, & 13.17%; plus Local 0% to 7.12%	Avg \$6.69 per phone plan	Avg 7%	Total 7.83% to 18.83%; Local 0% to 11%	6.9% plus local up to 10.15%
What rate is the general sales tax?	6%	None	Same	7.25%	2.95%
Who administers the tax?	State	Local	State and Local	State and Local	State and Local
What level is the local rate?	County and City	Varies	Varies	Varies	Varies
How is the rate distributed?	Actual	Actual	Actual	Actual	Actual
How does your state treat prepaid calling arrangements?	Generally, SUT		Taxable	SUT	

Florida Communications Services Tax Working Group
Follow-Up State Research

	Deleware	Idaho	Illinois	Kansas	Maine	Minnesota	Mississippi	Montana
Does the state impose a tax on the sale of communication services?	Yes	No	Yes	Yes	No	Yes	Yes	Yes
Examples	Intrastate Phone and Cable		Intrastate and interstate two way communications	Gross Receipts				
What rate are communication services taxed at?	Phone 4.25%; Cable 2.125%		7%	6.3% plus local		6.50%	7%	3.75%
What rate is the general sales tax?	None		6.25	Same		6.50%	7%	None
Who administers the tax?	State and Local		Local	State		State and Local	State and Local	State
What level is the local rate?	State		Cities	Varies		Varies	Varies	State
How is the rate distributed?	Actual		Actual	Actual		Actual	Actual	Actual
How does your state treat prepaid calling arrangements?			SUT	SUT		Taxable	Taxable	

Florida Communications Services Tax Working Group
Follow-Up State Research

	New Hampshire	New Mexico	North Carolina	North Dakota	Ohio	Oklahoma	Penn.	Rhode Island
Does the state impose a tax on the sale of communication services?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Examples	Two way comm.	Interstate					Telecom and Cable	
What rate are communication services taxed at?	7%	4.25%	4.75%	State 5%; Local 1% to 2%	State 5.5%; Local varies		State 6%; Local 1% or 2%	7%
What rate is the general sales tax?	None	5.13%	4.75%	Same	Same	Same	Same	7%
Who administers the tax?	State	State	State	State				State
What level is the local rate?	State	State	State	County and City	County			State
How is the rate distributed?	Actual	Actual	Actual	Formula from County	Formula			
How does your state treat prepaid calling arrangements?	CST	Gross Receipts	SUT	SUT	SUT/CST	SUT	SUT	SUT

Florida Communications Services Tax Working Group
Follow-Up State Research

	South Dakota	Tenn.	Vermont	Wisc.
Does the state impose a tax on the sale of communication services?	Yes	Yes	Yes	Yes
Examples	Phone			
What rate are communication services taxed at?	State 4%, Gross Receipts 4%, plus Local 1% to 2.75%	7% general, 7.5% interstate sold to businesses, 8.25% on cable from \$15.01 to \$27.50 (under \$15 exempt), Local 1 to 2.75%	State 6%; Local 1%	State 5%; Local 0.5%
What rate is the general sales tax?	Same	7%	Same	Same
Who administers the tax?	State	State	State	State
What level is the local rate?	Cities	County and City	City	County or Stadium
How is the rate distributed?		Actual	70% of Actual	% of Actual
How does your state treat prepaid calling arrangements?	SUT	SUT	SUT	SUT

Agenda Item 7

**Review of Communications Services Tax Revenue
and the Effect of Recent Law Changes**

**Overview of Communication
Services Tax Revenue, Local Rates
and Impact of Changes to State Law**

**Bob McKee
Office of Tax Research
Florida Department of Revenue**

Changes in State Law Since 2007

- 2007 – Emergency Rate Repeal.
- 2010 – Netting Bad Debt.
- 2010 – Rate Swap
- 2010 – Transient Public Lodging Ch.
- 2011 – Rounding Rule
- 2012 – Various changes, including Sales Price Definition, Local Siting

2007 – Emergency Rate Repeal

Ch. 2007-106, L.O.F.

- **Emergency Rates – authorized by 2000 legislation**
 - Designed to hold local governments harmless from switch from prior revenue sources to CST
 - Local governments could impose emergency rates if actual revenues were less than historic revenues plus anticipated growth
 - Emergency rate designed to recover shortfall prior to adoption of emergency rate over one year and permanently adjusted rate going forward to correct for shortfall
 - 2001 law provided no sunset to authority to adopt emergency rates
 - As local governments got further from adoption rate, the shortfall amounts grew to very large amounts
 - Impact of law change determined to be indeterminate, while reducing potential revenues by \$86.9 M on a recurring basis and \$572 M in 2007-08

2010 – Netting Bad Debt

Ch. 2010-83, L.O.F.

- Allowed dealers to use a proportionate allocation method based on current gross taxes due or another reasonable allocation method approved by DOR to net credits for bad debts
- The REC estimated the change to have \$0 impact

2010 –Rate Swap

Ch. 2010-149, L.O.F.

- Reduced the rate of the State component of the CST from 6.8% to 6.65%
- Increased the rate of the Gross Receipts Tax on Communication Services from 2.37% to 2.52%
- Specified that the residential exemption that applied to the state portion of the CST applied to the additional .15% of Gross Receipts Tax
- REC estimated the recurring impact to State Sales Tax component of the CST as -\$22.3 (-\$19.8 M state impact and -\$2.5 local impact) and a positive \$22.3 M to Gross Receipts Tax

2010 – Transient Public Lodging

Ch. 2010-138, L.O.F.

- Clarified that the exemption provided in s. 202.125(1) does not apply to transient public lodging establishment. Prior law specified the exemption did not apply to public lodging establishments, the definition of which included units that are regularly rented to guests for a period of at least 30 days.
- The REC estimated the change to have \$0 impact.

2011 – Rounding Rule

Ch. 2011-120, L.O.F.

- Provided that all tax computations must be calculated to the third decimal place and then round in a fashion where the tax is rounded up if the third digit is greater than 4 and round down if the third digit is less than five.
- Specified that if the rounding were done at an item level, it could not result in less tax than that due if the rounding were done at the invoice level.
- The REC estimated the change to have \$0 impact.

2012 – Various Issues

Ch. 2012-70, L.O.F.

- **Change to Sale Price Definition**
 - Allows Providers to unbundle charges for items that are not taxable as communication services that are not separately stated on the customer’s bill but that can be reasonably identified from the selling dealers books and records.

- The REC adopted the following statement for the impact of the unbundling:
 - Though the full scope of the impacts is indeterminate, the recurring annual impacts would be at least -\$11.3 million for Gross Receipts Tax, -\$2.9 million for state Sales and Use Tax, and -\$21.3 million for local government communications services tax. The speed with which the minimum recurring impacts will be reached is unknown, so the cash impacts in FY 2012-13 are unknown.

2012 – Various Issues

Ch. 2012-70, L.O.F.

■ Local Siting

- In order for the department to hold a CST dealer liable for failure to properly assign service addresses to the proper jurisdiction, the department must determine that there was a net aggregate underpayment
- Also limits the liability of the dealer to the net underpayment.
- Subject to the requirement that the dealer maintain and provide records (s.202.34, F.S.)
- The REC adopted a recurring impact of -\$4.7 M for the Local component of the CST

2012 – Various Issues

Ch. 2012-70, L.O.F.

- Retroactive Application
 - The law provides that the changes to the Sales price definition and the local situsing are remedial and clarifying and apply retroactively but do not provide a basis for an assessment or create a right to refund or credit of any tax paid.
 - The REC adopted a negative indeterminate impact, along with the following statement regarding this retroactive application:
 - The 2012-13 impact is expected to be at least -\$6.0 million (-\$2.5m GR Sales Tax, -\$0.3 Local Sales Tax, -\$1.0 Gross Receipts Tax, and -\$2.2 local Communications Services Tax).

Other Changes in Law Impacting CST

- Internet Tax Freedom Act (ITNA)– 2004
 - Provided that if charges for Internet access are aggregated with and not separately stated from charges for telecommunication services or other charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access provider can reasonably identify the charges for Internet access from its books and records kept in the regular course of business (Unbundling of internet access).
 - Amended the definition of internet access to include telecommunications services to the extent such services are purchased, used, or sold by a provider of internet access to provide internet access.
 - Florida did not experience revenue impact from this part of the 2004 amendment due to a grandfather provision. The grandfather provision was revised in a 2007 amendment to ITNA that resulted in impact to Florida from this part of the 2004 change beginning 7/1/2008.

Historic CST Collections

Historic Collections (Millions)				
Year	Gross Receipts Tax (Excl. DHS)	State Portion (Excl. DHS)	Direct to Home Satellite (DHS)	Local CST
2001-02	\$383.3	\$502.6	\$46.3	\$426.7
2002-03	\$370.5	\$781.2	\$69.5	\$739.3
2003-04	\$362.2	\$803.6	\$116.1	\$711.7
2004-05	\$381.9	\$875.8	\$132.3	\$802.4
2005-06	\$392.0	\$918.5	\$171.8	\$843.3
2006-07	\$409.2	\$952.4	\$176.8	\$875.4
2007-08	\$422.3	\$993.7	\$186.5	\$888.5
2008-09	\$438.4	\$976.1	\$192.7	\$915.8
2009-10	\$398.8	\$986.3	\$183.1	\$862.7
2010-11	\$398.4	\$904.3	\$187.5	\$816.2
2011-12	\$290.2	\$887.9	\$167.3	\$640.6

*Collections Through April 2012

Historic CST Collections – As Reported by REC

Historic Collections (Millions, State Fiscal Year)				
Year	Gross Receipts Tax	State Portion of CST	Additional Direct to Home Satellite	Local Component
2001-02	\$391.7	\$526.5	\$14.1	\$426.7
2002-03	\$383.0	\$817.1	\$21.1	\$739.3
2003-04	\$383.1	\$863.5	\$35.3	\$711.7
2004-05	\$405.7	\$944.1	\$40.2	\$802.4
2005-06	\$422.9	\$1,007.2	\$52.2	\$843.3
2006-07	\$441.0	\$1,043.7	\$53.7	\$875.4
2007-08	\$455.9	\$1,090.0	\$56.6	\$888.5
2008-09	\$473.1	\$1,075.6	\$58.5	\$915.8
2009-10	\$431.7	\$1,080.9	\$55.6	\$862.7
2010-11	\$432.2	\$1,001.2	\$57.0	\$816.2
2011-12*	\$320.3	\$974.3	\$50.8	\$640.6

*Collections Through April 2012

CST Providers – Structure of Industry

- Industry Heavily Concentrated
 - Approximately 3500 Dealers registered for CST
 - Ten largest providers remit 69.8% of tax
 - Twenty-five largest providers remit 90% of tax
 - Fifty largest providers remit 96.1% of tax
 - Seventy-five largest providers remit 97.5% of tax
 - Over 3400 providers combined remit less than 3% of tax

CST Dealer Collection Allowance

(As Taken on Return)

- Providers of Communication Services are allowed to take a Collection allowance if certain conditions are met
- Collection Allowance can be 0.75% of collection or 0.25% of collections
 - Determined by type of database provider uses for situsing customers for purposes of local component of the CST for those with situsing requirement
- Section 202.28(1), F.S., provides that the collection allowance is: . . . for the purpose of compensating persons providing communications services for the keeping of prescribed records, the filing of timely tax returns, and the proper accounting and remitting of taxes . . .

Calendar Year	Collection Allowance
2001*	\$3,036,519
2002	\$12,796,903
2003	\$13,284,869
2004	\$14,370,427
2005	\$16,048,527
2006	\$15,998,738
2007	\$16,767,753
2008	\$16,733,534
2009	\$16,431,168
2010	\$16,374,970
2011	\$15,745,432
2012*	\$3,884,659

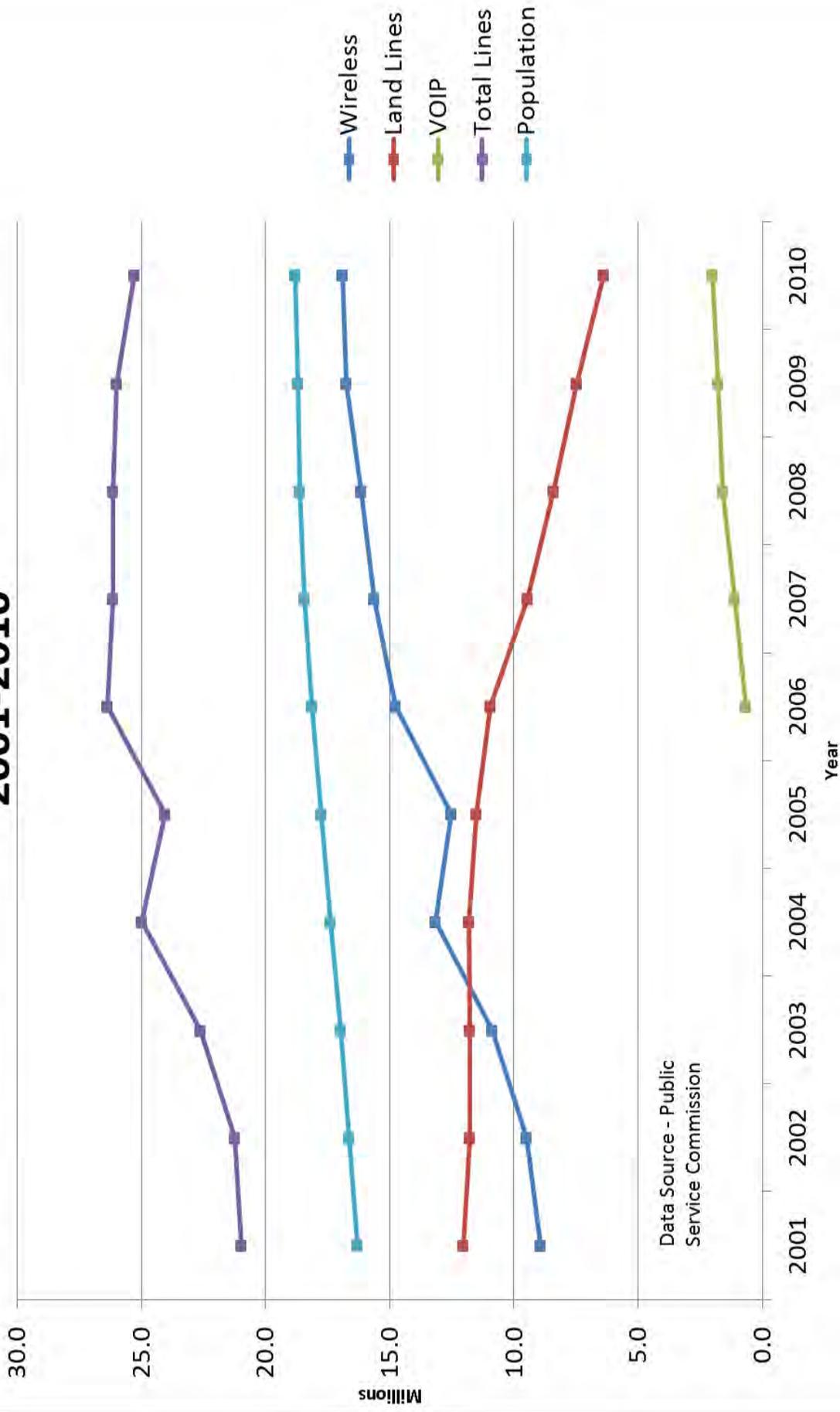
History of Florida's Underlying Phone Service

Year	Wireless (M)	Land Line (M)	VOIP (M)	Total Lines (M)	Population (M)	Phone per person
2001	8.9	12.0	n/a *	21.0	16.3	1.29
2002	9.5	11.8	n/a *	21.3	16.6	1.28
2003	10.9	11.8	n/a *	22.6	17.0	1.33
2004	13.2	11.8	n/a *	25.0	17.4	1.44
2005	12.5	11.5	n/a *	24.0	17.8	1.35
2006	14.8	11.0	0.7	26.4	18.2	1.45
2007	15.6	9.4	1.1	26.2	18.4	1.42
2008	16.2	8.4	1.6	26.2	18.6	1.40
2009	16.7	7.5	1.8	26.0	18.7	1.39
2010	16.9	6.4	2.0	25.3	18.8	1.35

*only national numbers available for these periods.

Source – Florida Public Service Commission

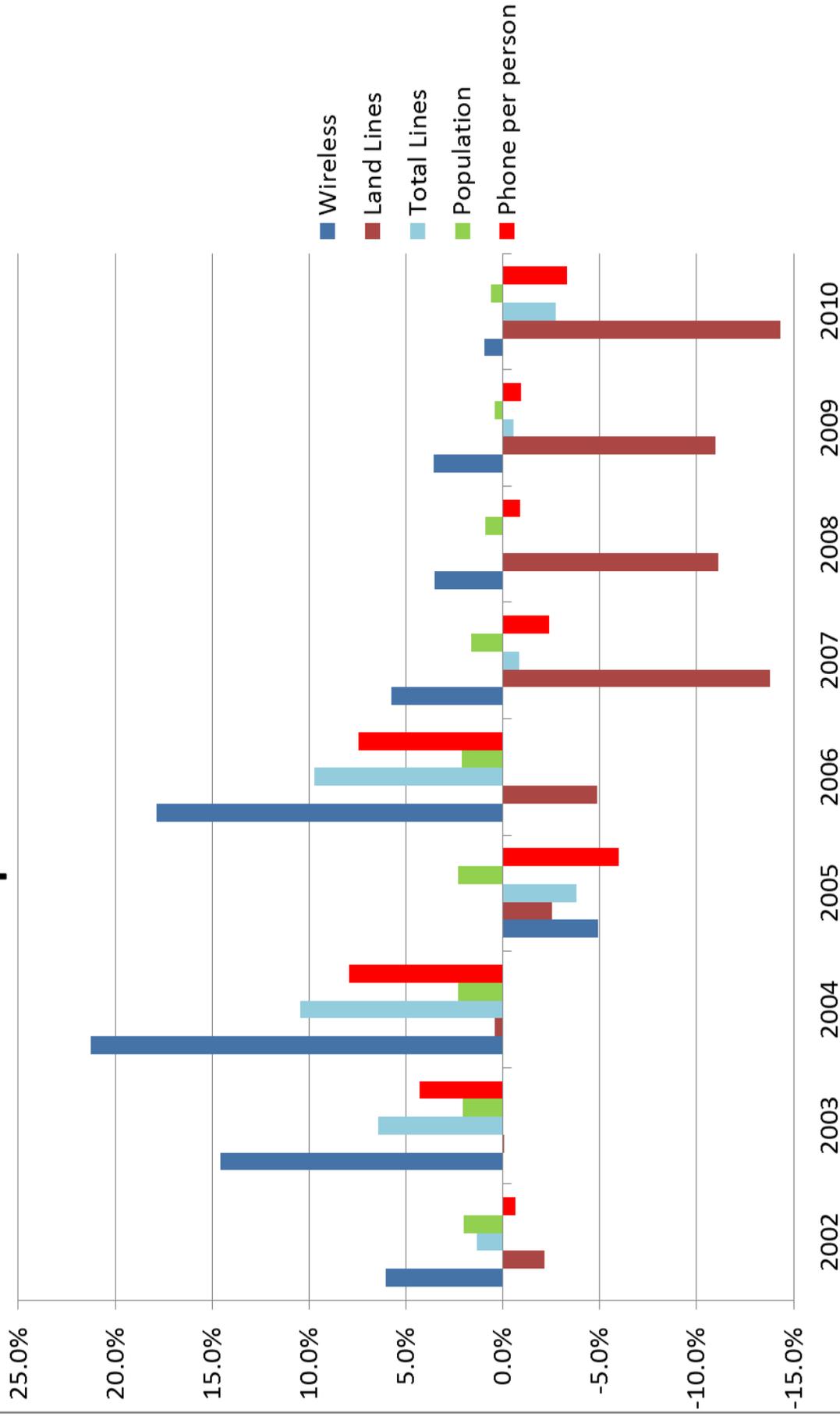
Comparison of Type of Phone Service and Population 2001-2010



Growth Rates for Types of Phone Service compared to Population Growth 2002-2010

Growth Rates 2002-2010						
	Wireless	Land Lines	VOIP	Total Lines	Population	Phone per person
2002	6.0%	-2.2%		1.3%	2.0%	-0.7%
2003	14.6%	-0.1%		6.4%	2.1%	4.3%
2004	21.3%	0.4%		10.4%	2.3%	7.9%
2005	-4.9%	-2.5%		-3.8%	2.3%	-6.0%
2006	17.9%	-4.9%		9.7%	2.1%	7.5%
2007	5.8%	-13.8%	66.7%	-0.8%	1.6%	-2.4%
2008	3.5%	-11.1%	45.5%	0.0%	0.9%	-0.9%
2009	3.6%	-11.0%	12.5%	-0.5%	0.4%	-0.9%
2010	1.0%	-14.3%	11.1%	-2.7%	0.6%	-3.3%

Growth Comparison for Types of Phone Service and Population 2002-2010



Prepaid Wireless Handsets (Estimate)

Prepaid Calling Arrangements - Implied Handsets	Wireless	Non-Wireless
2010 E 911 receipts	\$77,170,979	\$45,888,321
Implied lines/handsets - 2010	12,861,830	7,648,054
PSC Reported Wireless Handsets - 2010	16,900,000	
Implied number prepaid handsets - 2010	4,038,170	
Implied Prepaid Handset Penetration - 2010	23.9%	

- Note: CTIA – The Wireless Association estimated the market penetration of prepaid/Pay-as-you-go plans at 21.8% for 2010 in ***CTIA’s Wireless Industry Indices Report – May 2011***

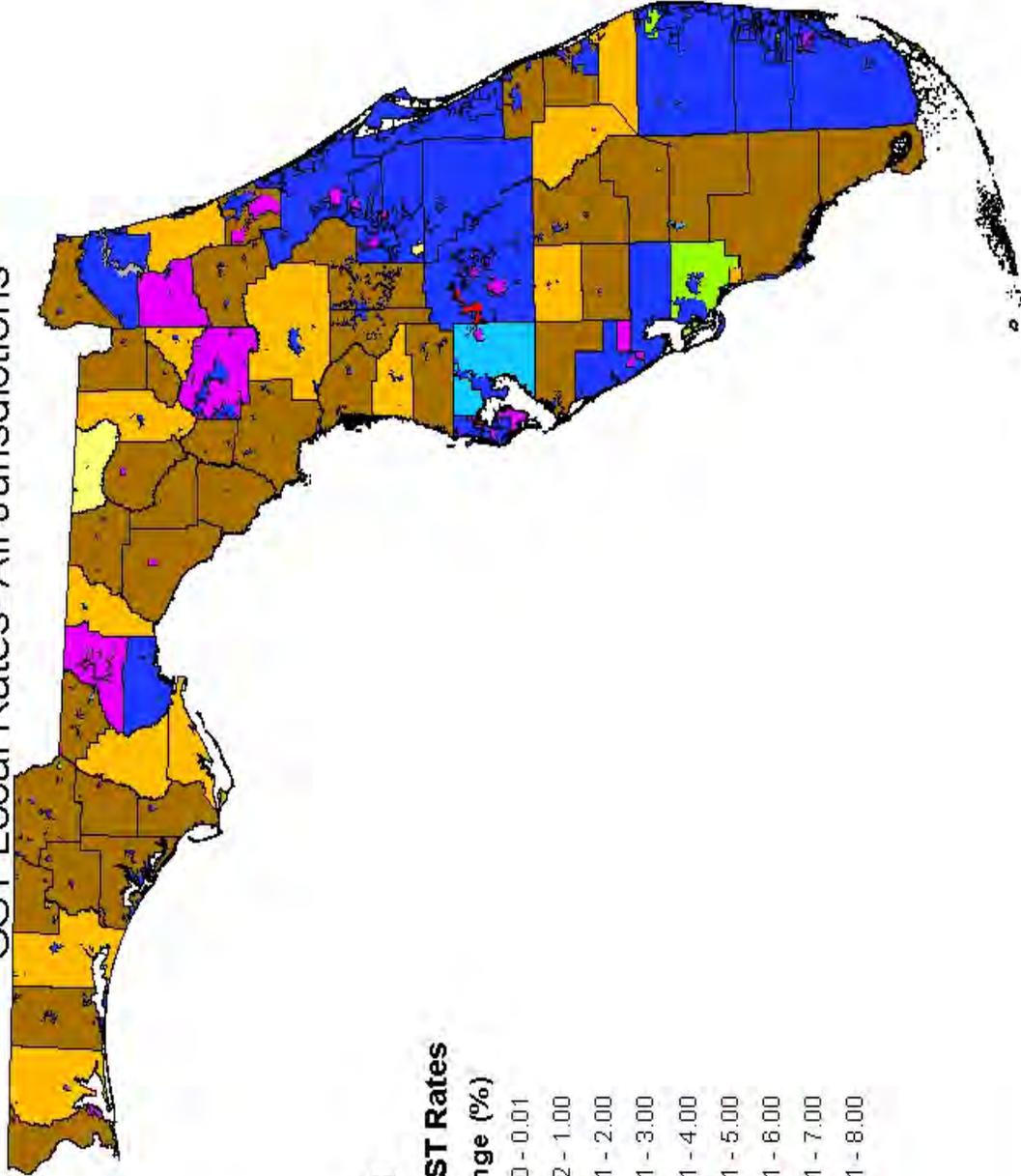
Local CST Rates

- **Maximum rates**
 - Municipalities and Charter Counties 5.1%
 - Non-Charter Counties 1.6%
- **Add-on rates – Permit Fee Election**
 - Municipalities and Charter counties .12% or -.12
 - Non-Charter Counties .24%
- **Local Option Sales Tax Surcharge add-ons**
 - Applies in both municipalities and unincorporated areas
 - Seven different possible rate amounts
 - Ranges from 0.0% to 0.9%
- **Conversion Rates and Emergency Rate**
 - Can exceed maximum rate
- **In total – 122 different local rates in 2012**

Local Rates - Demographics (Including Surtax Add-on Rates)

Rate Range	Population	% of total	Cumulative %	Number of Jurisdictions
0-1%	116,310	0.62%	0.6%	12
>1%-2%	2,972,266	15.92%	16.5%	34
>2%-3%	562,734	3.01%	19.6%	51
>3%-4%	1,195,850	6.40%	26.0%	11
>4%-5%	1,050,367	5.62%	31.6%	14
>5%-6%	12,080,389	64.69%	96.3%	297
>6%-7.12%	695,452	3.72%	100.0%	62

CST Local Rates- All Jurisdictions



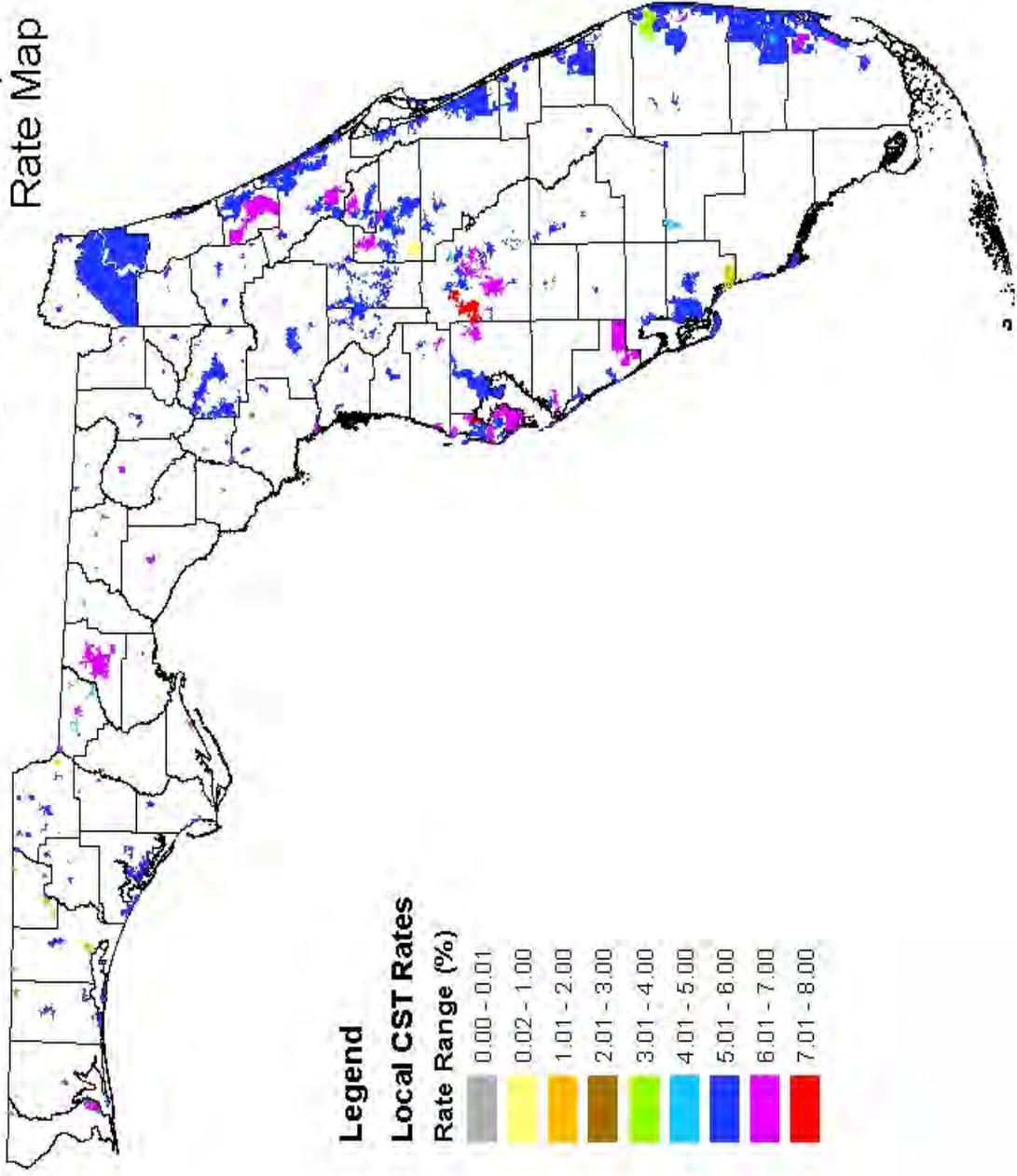
Legend

Local CST Rates

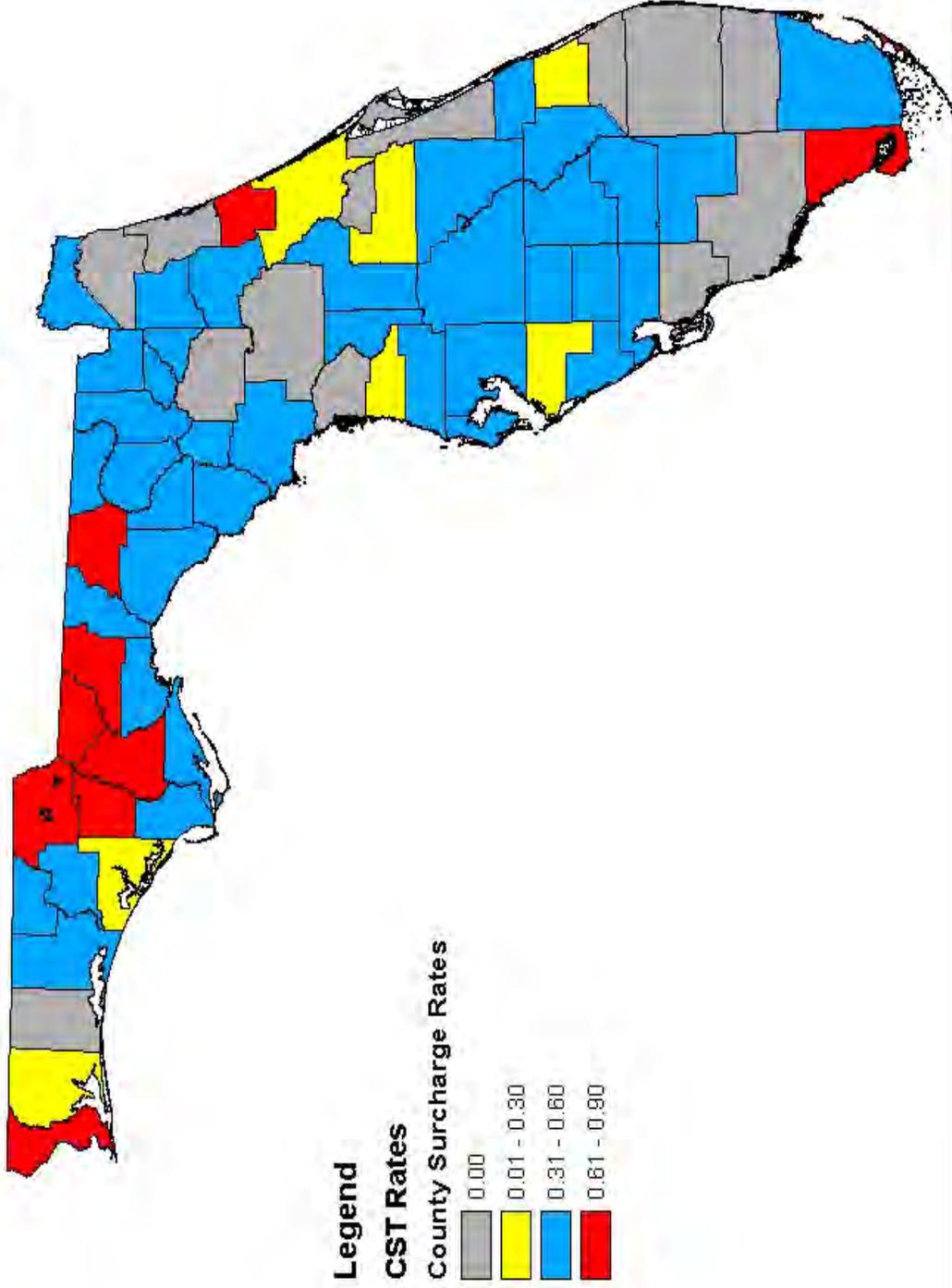
Rate Range (%)

- 0.00 - 0.01
- 0.02 - 1.00
- 1.01 - 2.00
- 2.01 - 3.00
- 3.01 - 4.00
- 4.01 - 5.00
- 5.01 - 6.00
- 6.01 - 7.00
- 7.01 - 8.00

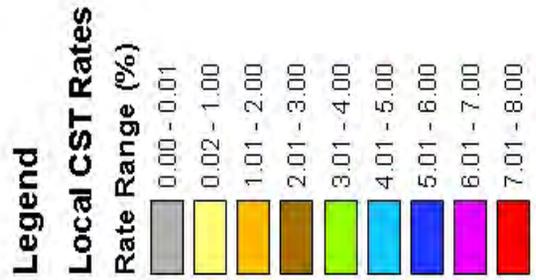
Statewide Municipal Local CST Rate Map



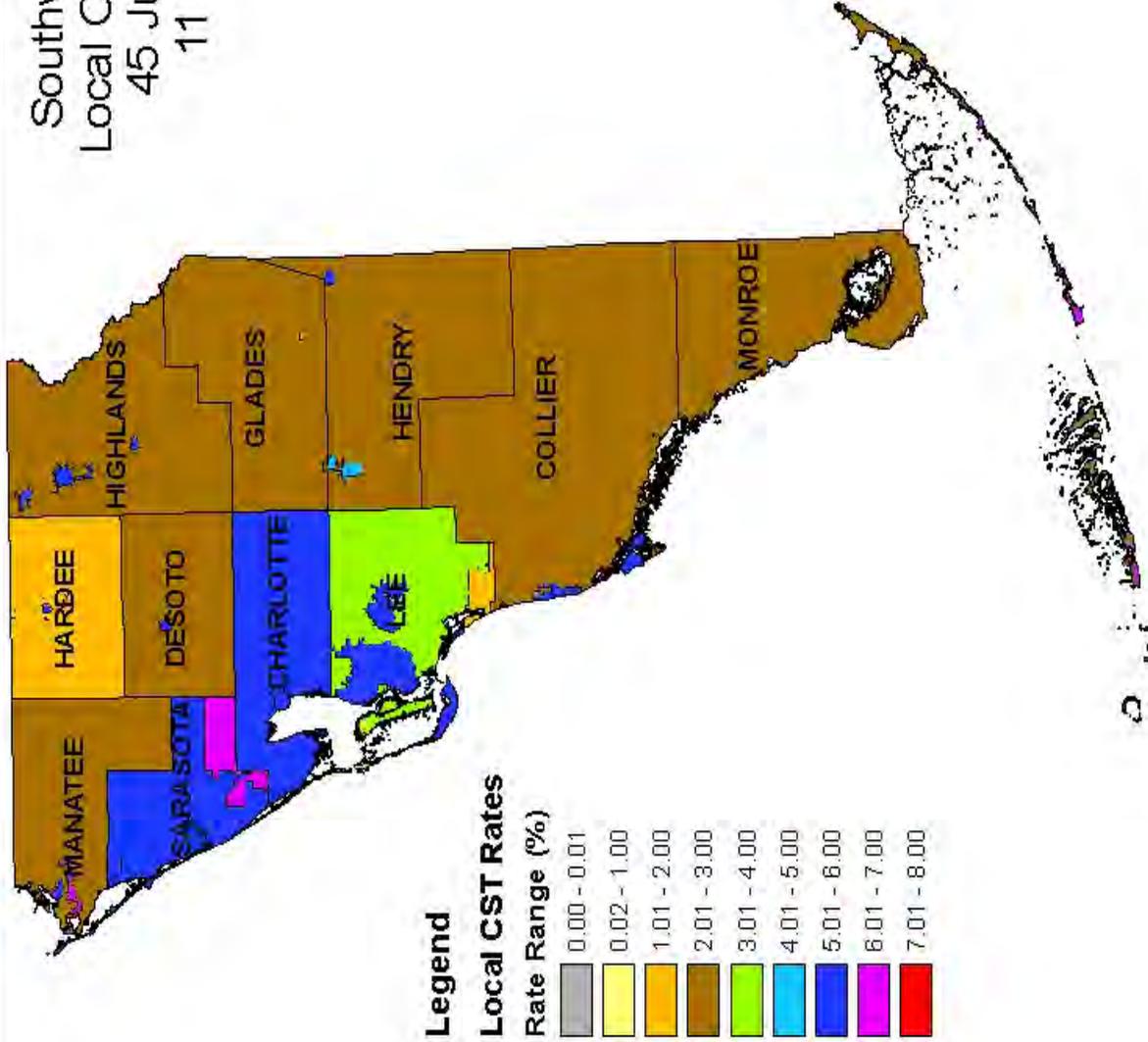
Statewide CST Local Option Sales Tax Surcharge Rate Map



Broward
Palm Beach
Miami-Dade
Local CST Rate Map
107 Jurisdictions



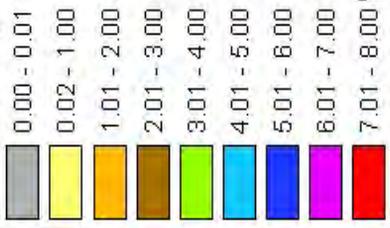
Southwest Florida
Local CST Rate Map
45 Jurisdictions
11 Counties



Legend

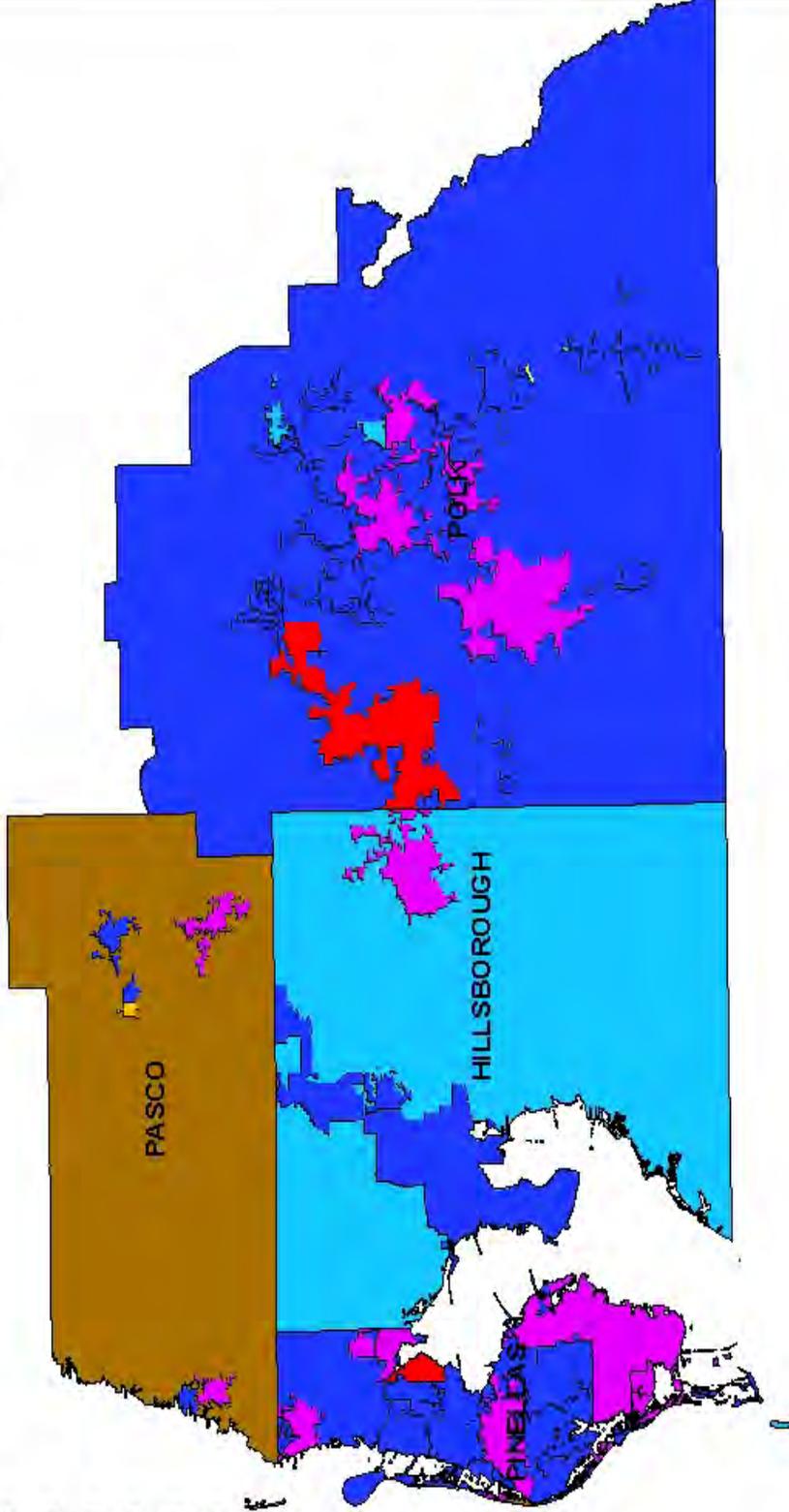
Local CST Rates

Rate Range (%)

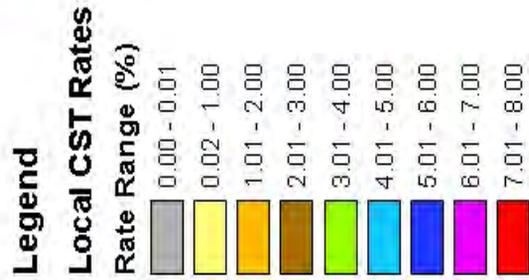
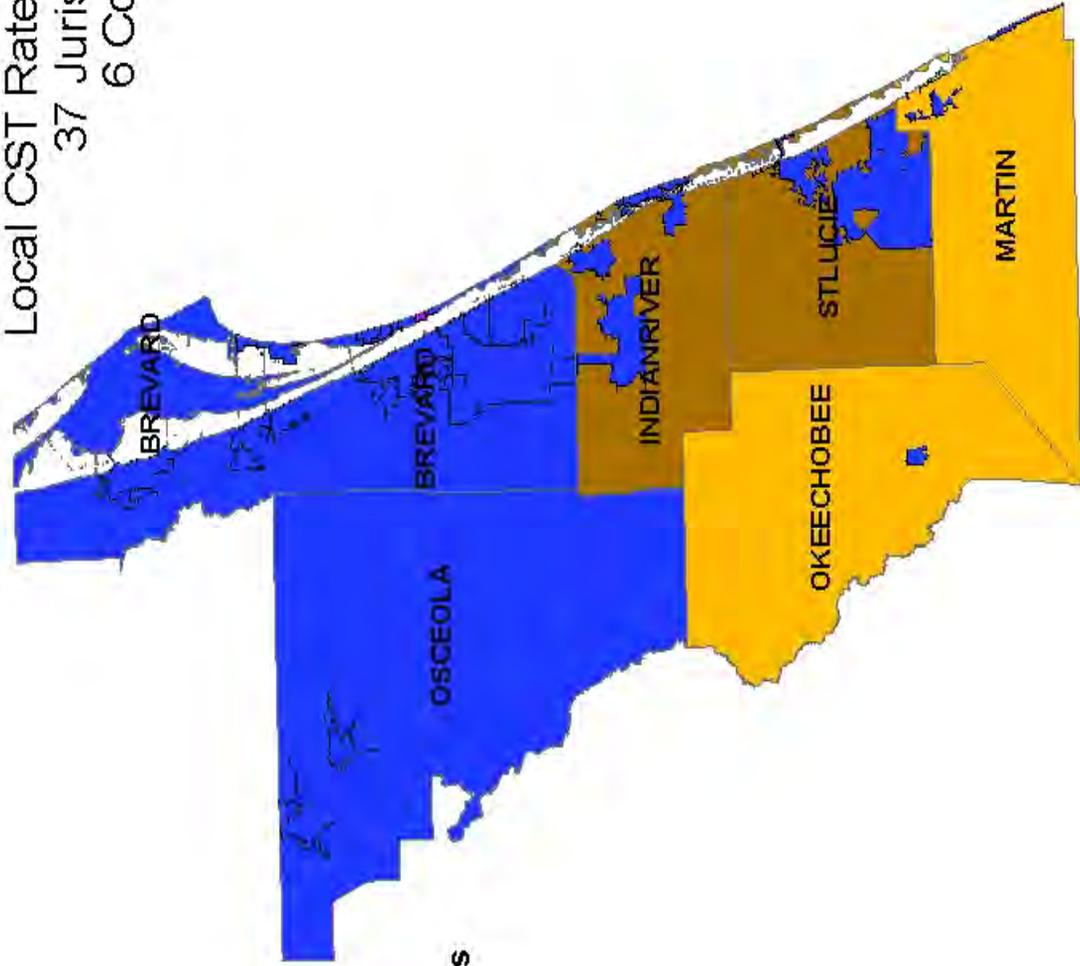


Hillsborough
Pasco
Pinellas
Polk

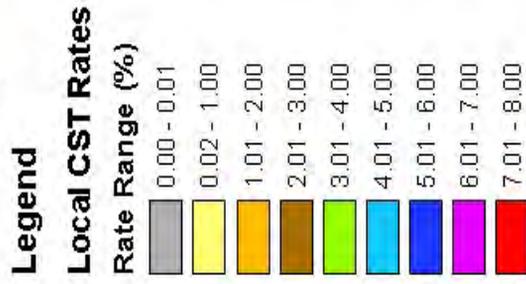
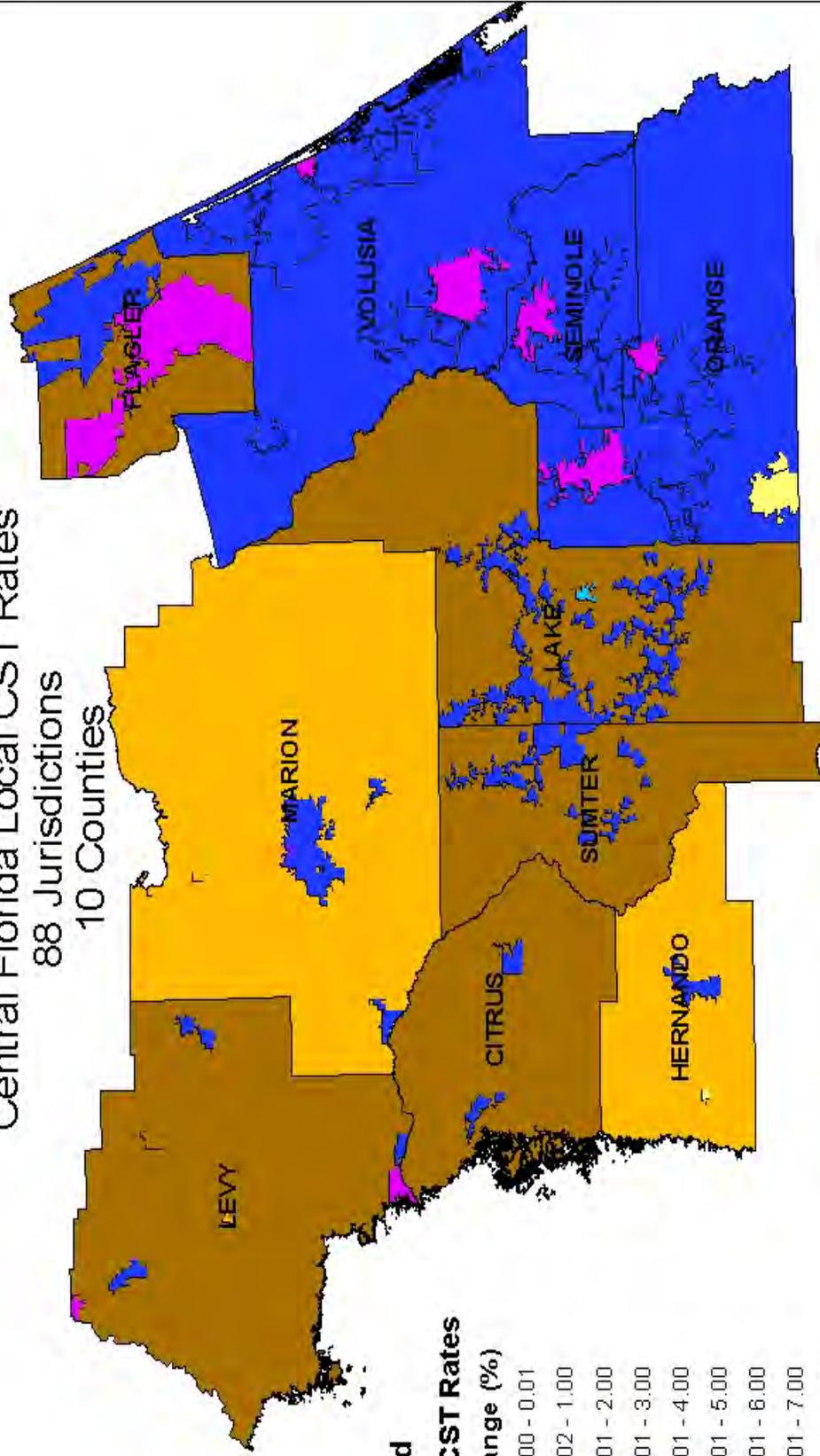
Rate Map - 54 Jurisdictions



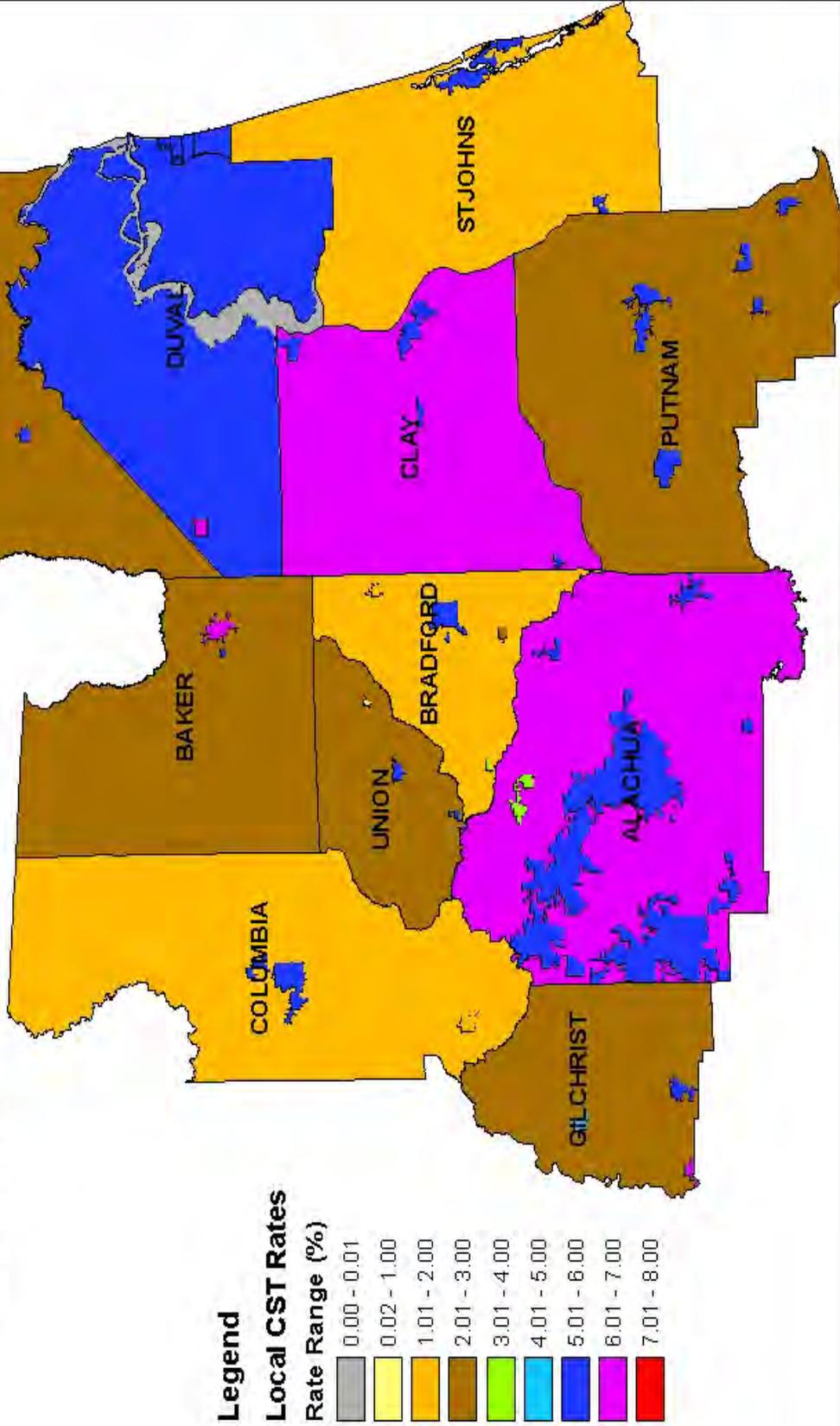
Local CST Rates- Treasure Coast
37 Jurisdictions
6 Counties



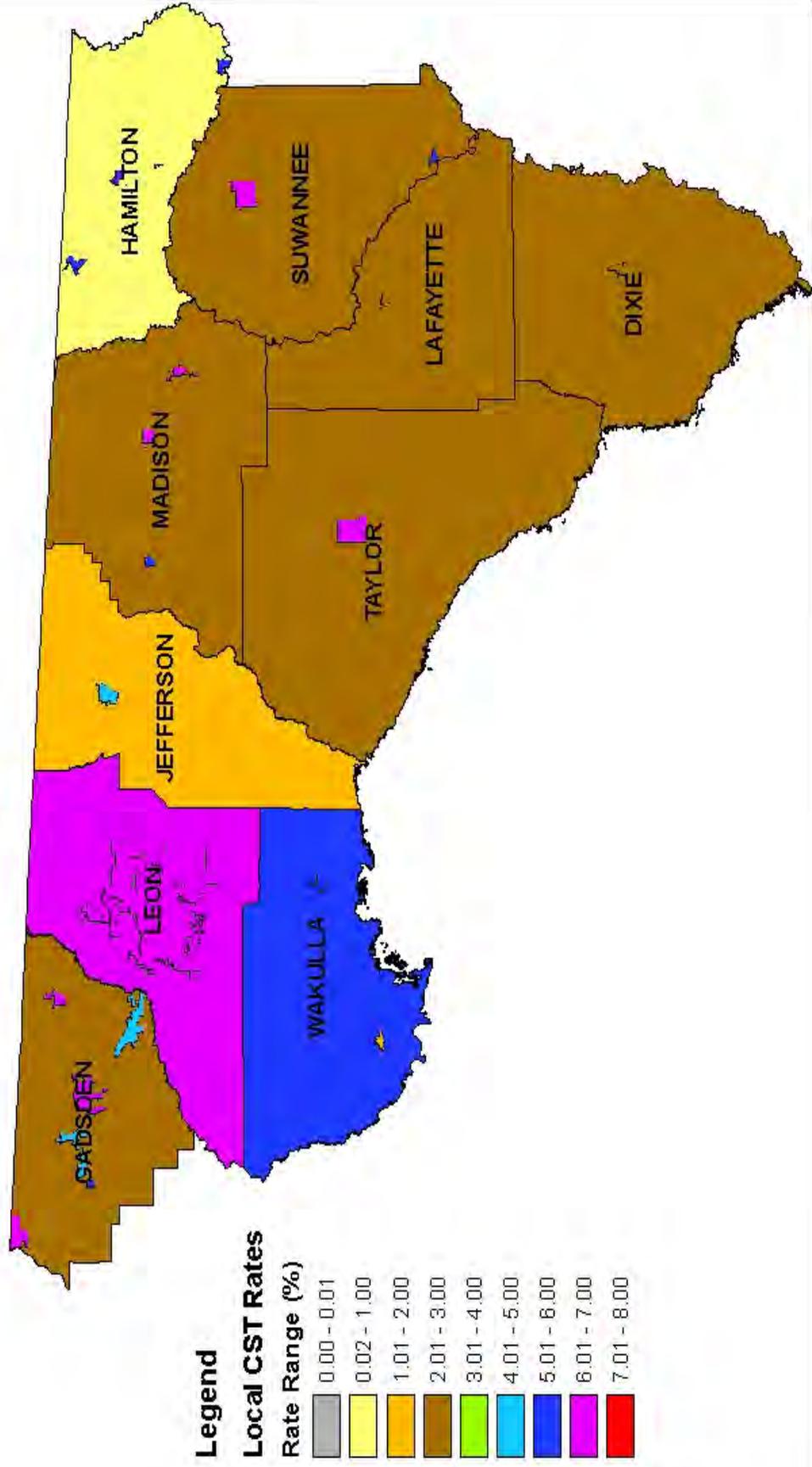
Central Florida Local CST Rates
88 Jurisdictions
10 Counties



Northeast Florida Local CST Rates
 54 Jurisdictions
 11 Counties

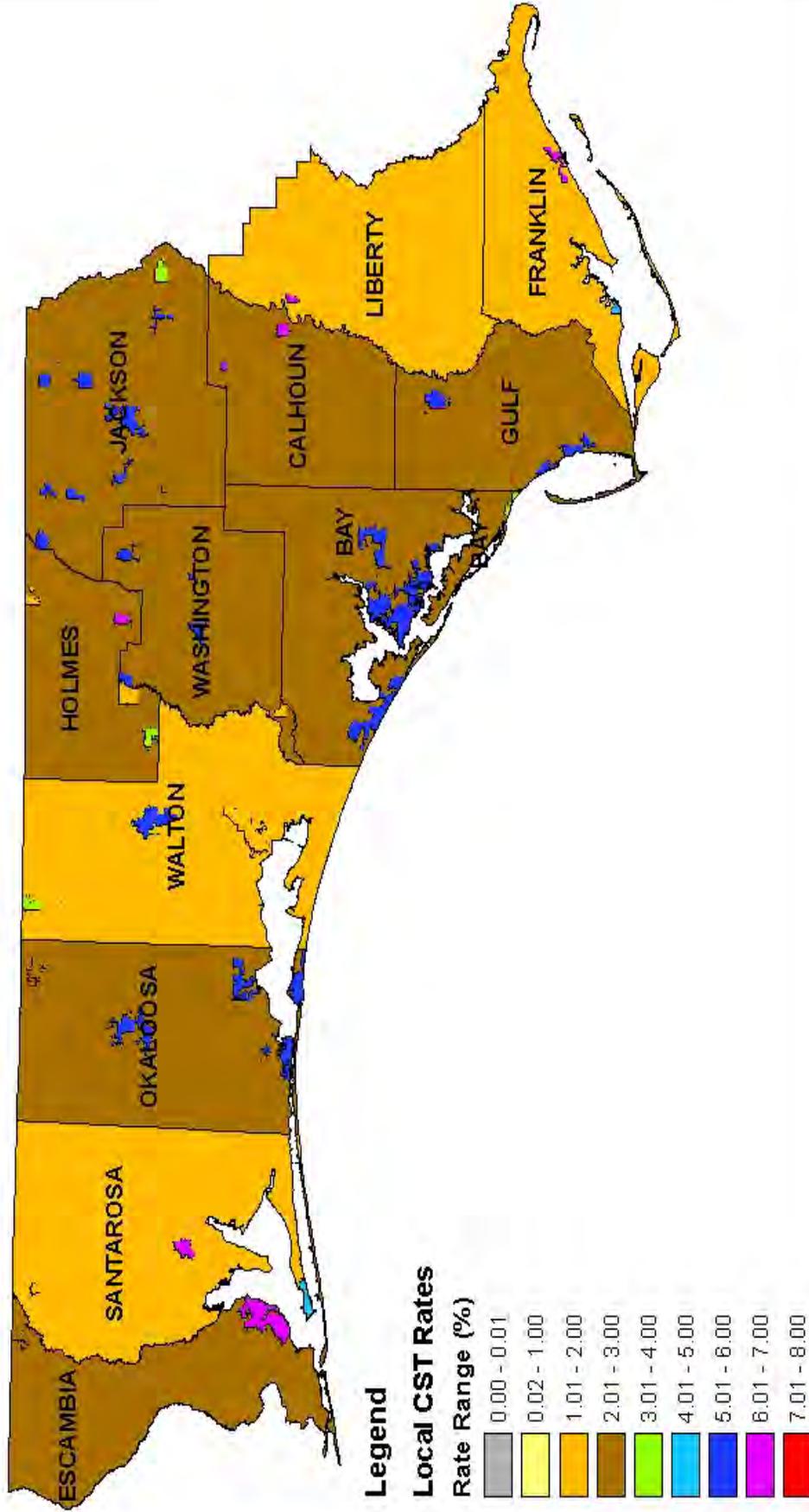


Big Bend Local CST Rates
 32 Jurisdictions
 10 Counties



Panhandle Local CST Rates

64 Jurisdictions
12 Counties





■ Questions?

Agenda Item 8

**Review of Communications Services Tax Revenue and
the Public Education Capital Outlay Program**

An Overview of Gross Receipts and PECO Bonding

June 11, 2012

Presented by:



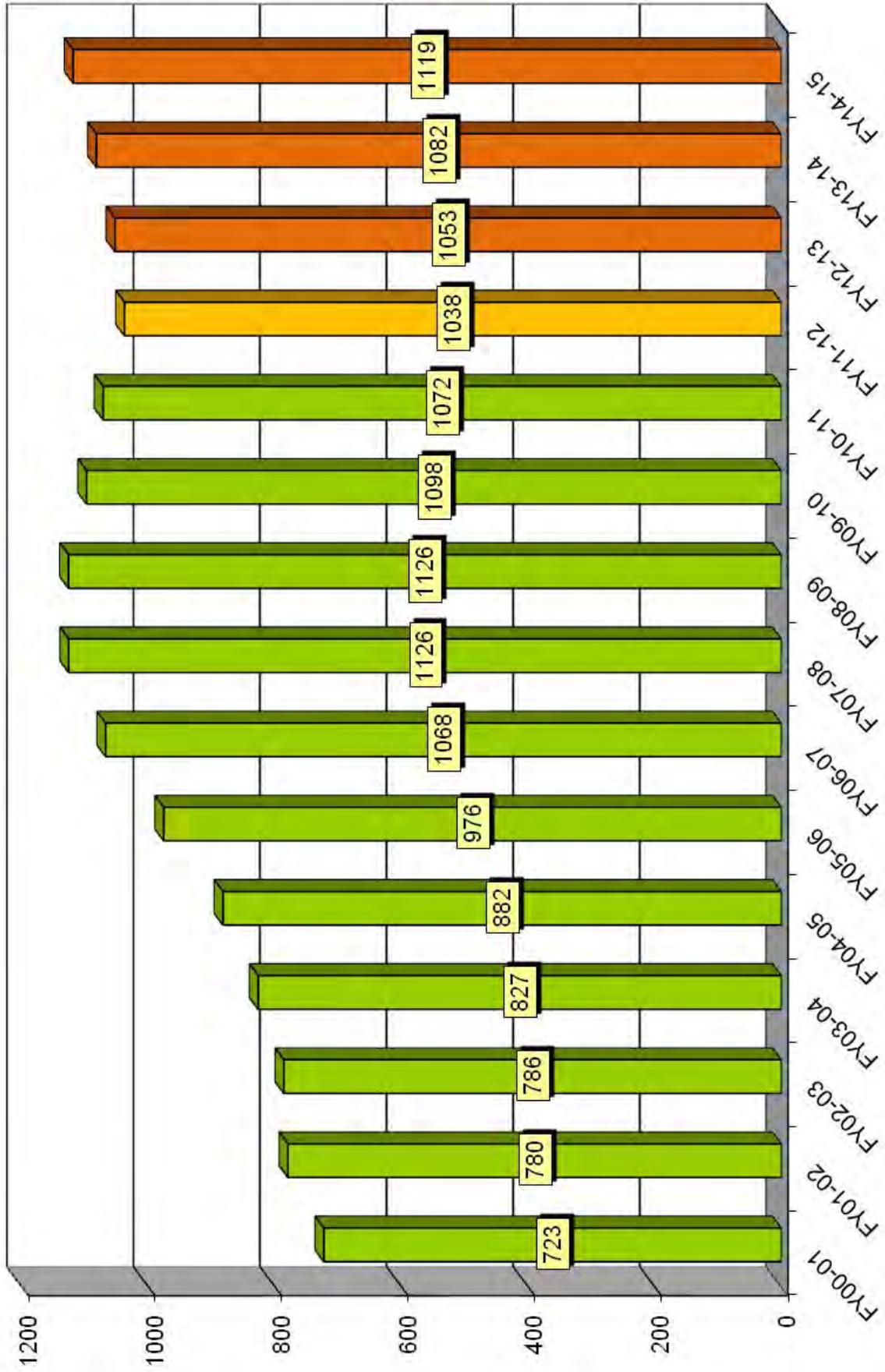
The Florida Legislature
Office of Economic and
Demographic Research
850.487.1402
<http://edr.state.fl.us>

Taxable Items

Gross Receipts (CST +++)	Sales Tax CST
<ul style="list-style-type: none"> • Telecommunication Services – residential, commercial and wireless 	<ul style="list-style-type: none"> • Telecommunication Services – commercial and wireless
<ul style="list-style-type: none"> • Television Services – cable and satellite 	<ul style="list-style-type: none"> • Television Services – cable and satellite
<ul style="list-style-type: none"> • Electricity 	<ul style="list-style-type: none"> • N/A
<ul style="list-style-type: none"> • Gas Fuels 	<ul style="list-style-type: none"> • N/A
<p>2011-12 Total Estimate: \$1,037.91 million</p>	
<p>CST~ \$418.1 million (40.3% of Total Gross Receipts)</p>	<p>2011-12 Estimate: CST~ \$974.32 million (2.33 x Gross Receipts share)</p>



Gross Receipts Revenues



Bonding Attributes

- Generally, Section 11 of Article VII of the Florida Constitution authorizes the state to issue general obligation bonds or revenue bonds to finance or refinance fixed capital outlay projects authorized by law. General obligation bonds are secured by the full faith and credit of the state and payable from specified taxes. Revenue bonds are payable solely from specified revenues.
- The Florida Constitution requires the Legislature to appropriate moneys sufficient to pay debt service on bonds pledging the full faith and credit of the State. All state tax revenues, other than trust funds dedicated by the Florida Constitution for other purposes, would be available for such an appropriation if required.
- Education-related bonds are unusual because the state is responsible for the liability while the related assets are owned by local school districts, state colleges and state universities --- meaning that the asset is not included in the state's financial statements while the current-period liability is.
- Public Education Bonds are issued to finance capital outlay projects of local school districts, community colleges, vocational technical schools, and state universities. The bonds, serial and term, are secured by a pledge of the state's **gross receipts tax revenues** and by a pledge of the **full faith and credit of the state**.

Authorization To Bond Gross Receipts

Article XII, Section 9(a)(2)

...all of the proceeds of the revenues derived from the **gross receipts taxes** collected from every person...shall, as collected, be placed in a trust fund to be known as the “public education capital outlay and debt service trust fund” in the state treasury (hereinafter referred to as “capital outlay fund”), and used only as provided herein...

The capital outlay fund shall be administered by the **state board of education** ...(hereinafter referred to as “state board”)...

State bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, by the state board pursuant to law to finance or refinance capital projects theretofore authorized by the legislature, and any purposes appurtenant or incidental thereto, for the state system of public education provided for in Section 1 of Article IX of this Constitution (hereinafter referred to as “state system”), including but not limited to institutions of higher learning, community colleges, vocational technical schools, or public schools, as now defined or as may hereafter be defined by law.



Constitutional Requirements...con't

All such bonds shall mature not later than **thirty years** after the date of issuance thereof...

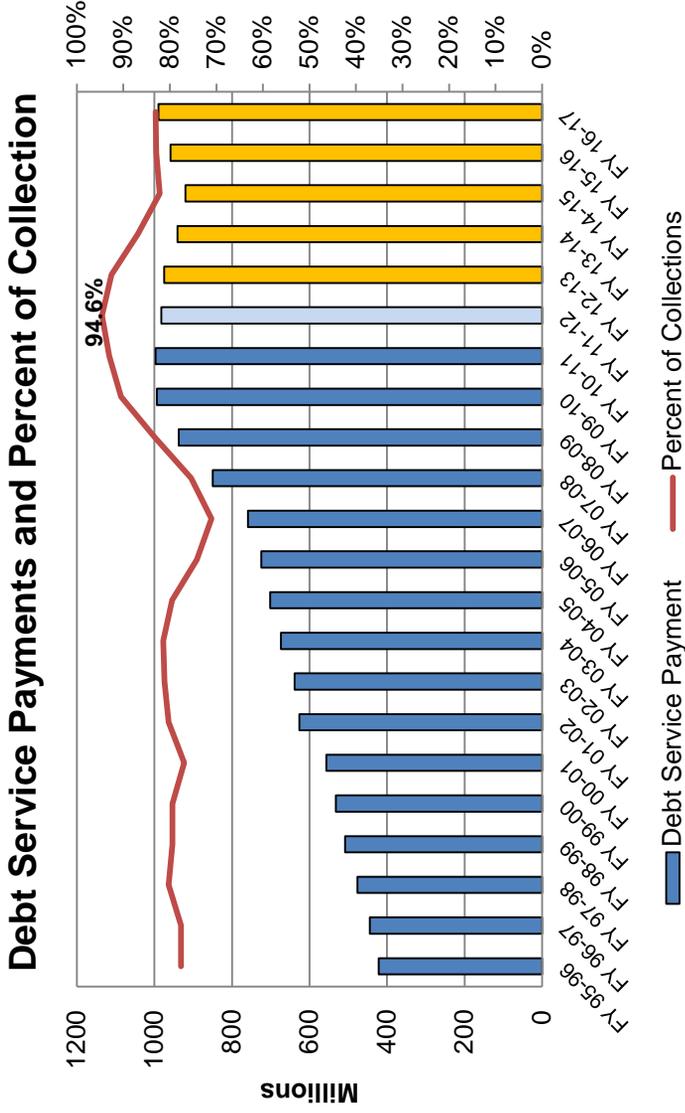
...No such bonds shall ever be issued in an amount exceeding ninety percent of the amount which the state board determines can be serviced by the revenues derived from the gross receipts taxes accruing thereafter under the provisions of this subsection (a)(2), and such determination shall be conclusive.

The moneys in the capital outlay fund in each fiscal year shall be used only for the following purposes and in the following order of priority:

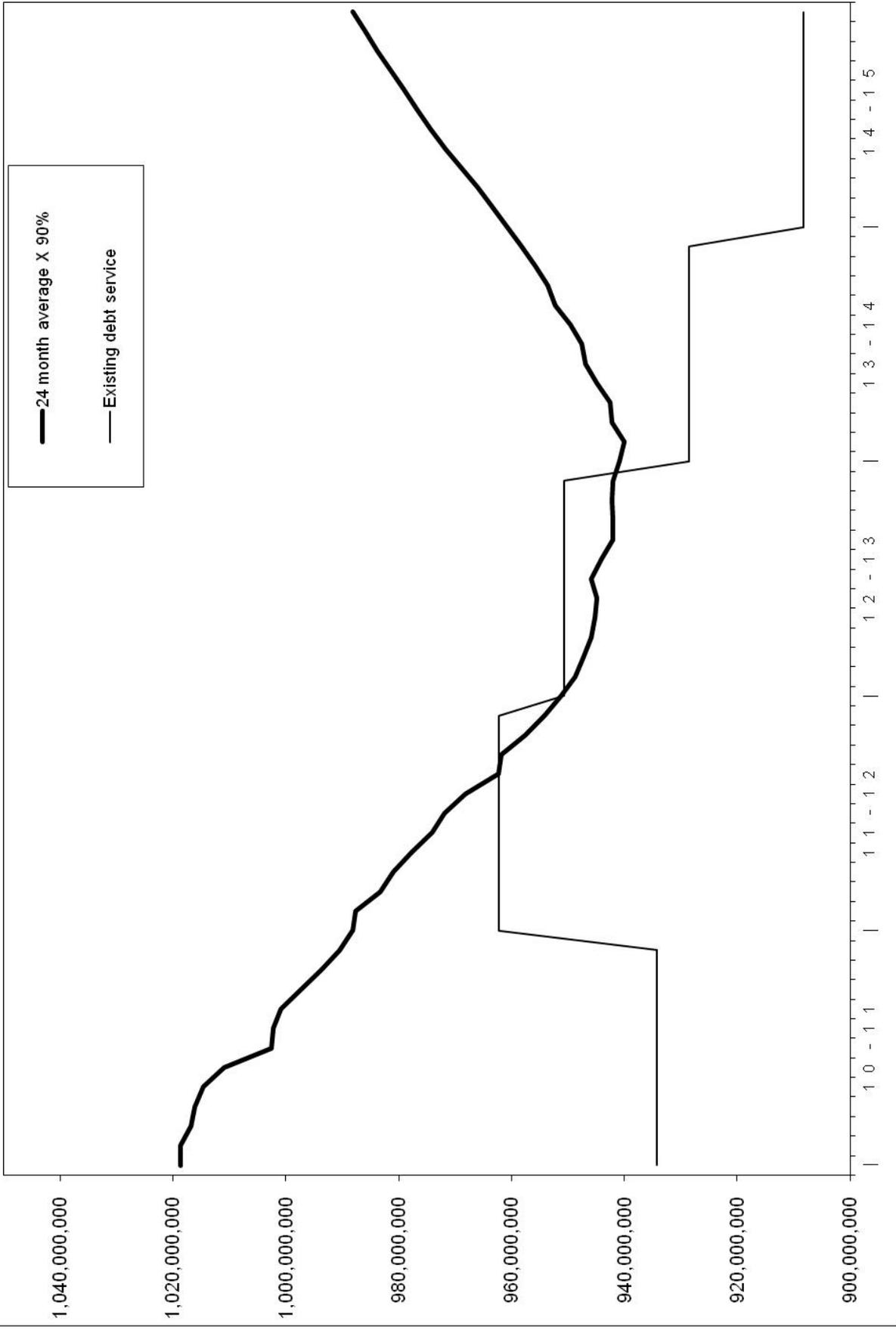
- a. For the payment of the principal of and interest on any bonds due in such fiscal year;
- b. For the deposit into any reserve funds provided for in the proceedings authorizing the issuance of bonds of any amounts required to be deposited in such reserve funds in such fiscal year;
- c. For direct payment of the cost or any part of the cost of any **capital project for the state system** theretofore authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds, or for the purpose of **maintaining, restoring, or repairing existing public educational facilities**.

Debt Service

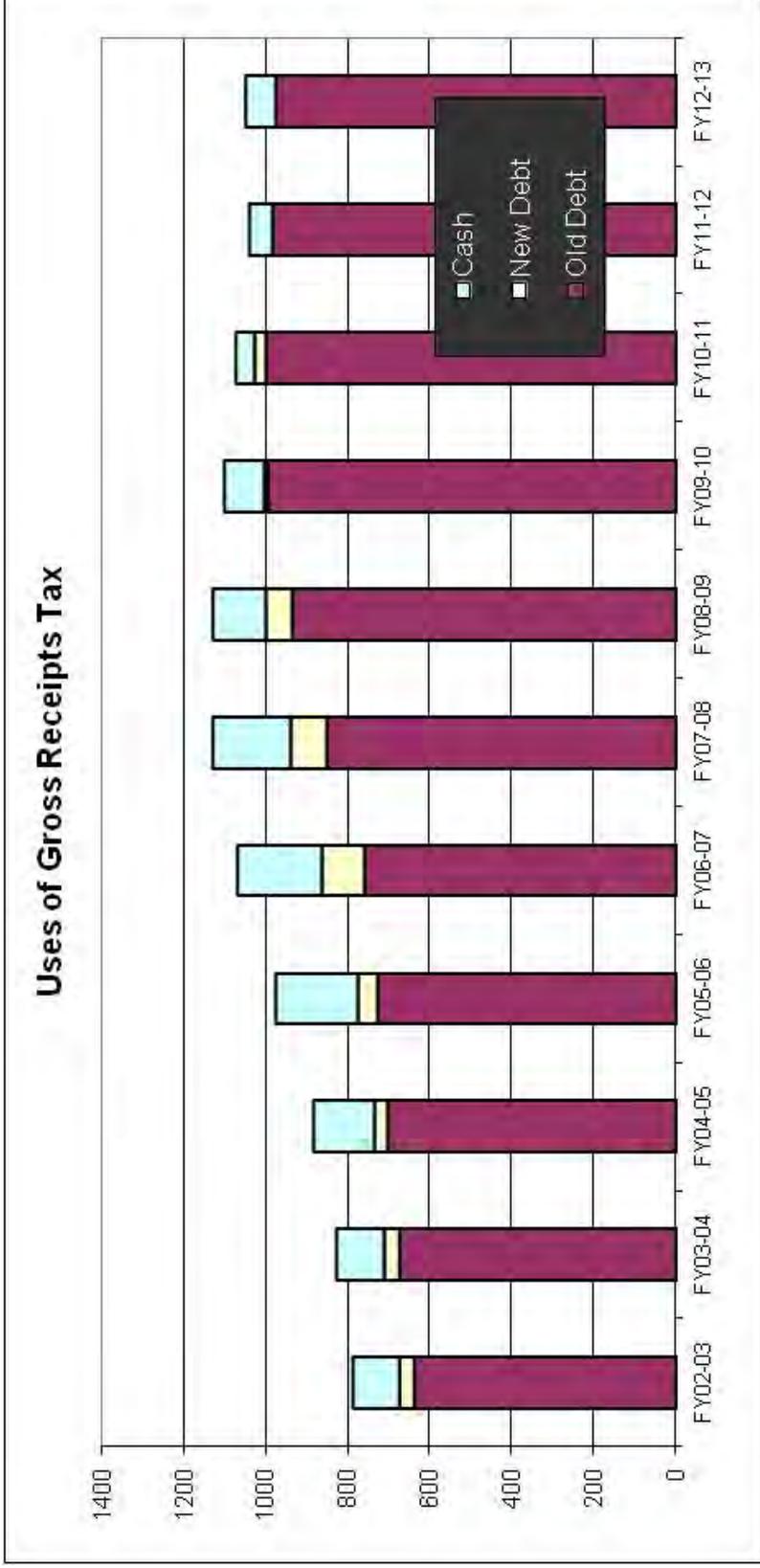
- Each PECO bond sale obligates a portion of the Gross Receipts Tax collection stream into the future. In other words, the state gives up a portion of the future tax collections in order to enjoy the benefit of having a larger amount to spend on projects in the present time. Most of the tax collections are not available for spending on new PECO projects, but instead must be paid out for outstanding bonds. This also means that since the state has typically sold the maximum amount of bonds it can each year, the ability to sell additional bonds in subsequent years is dependent on there being an increase in the tax collections.



Debt Service on PECO Bonds

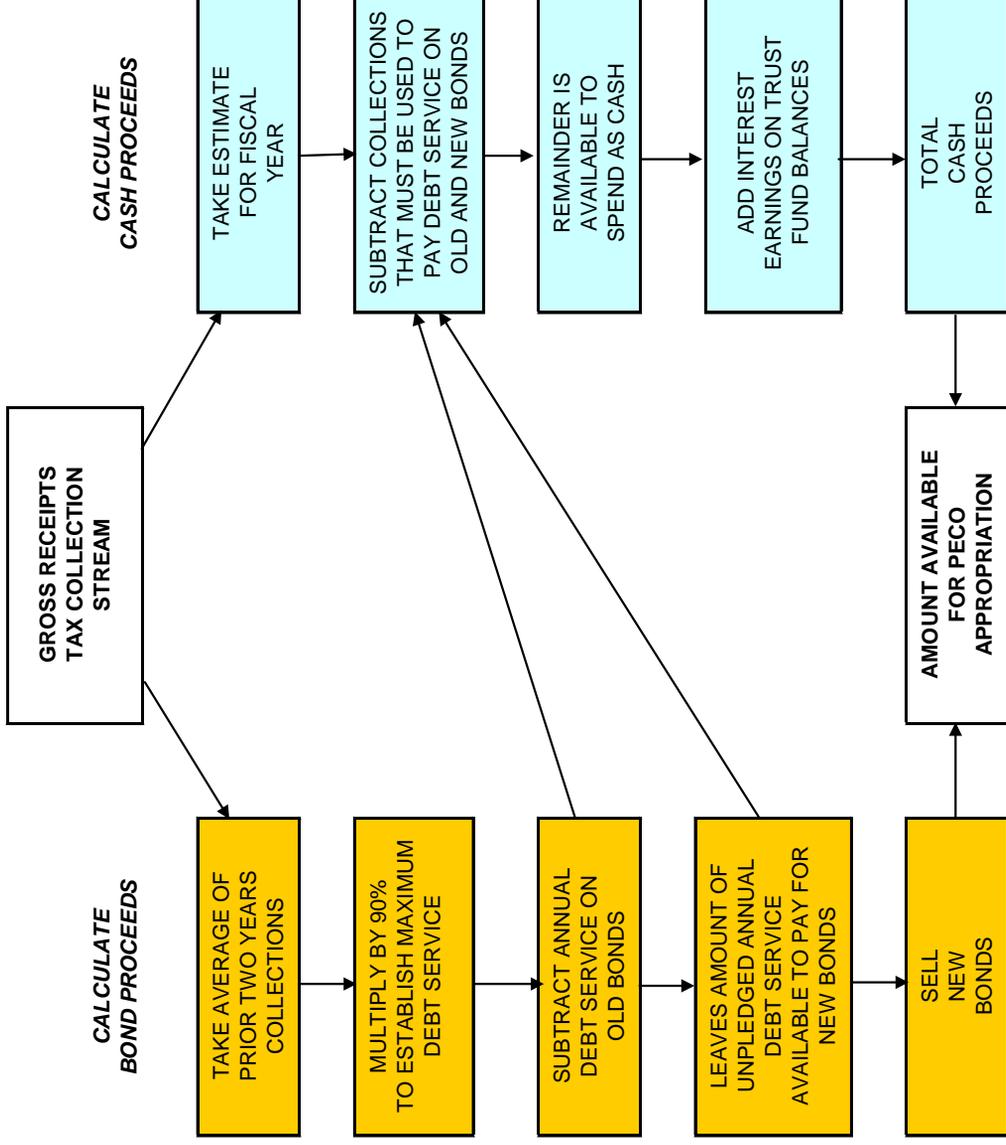


Total Composition

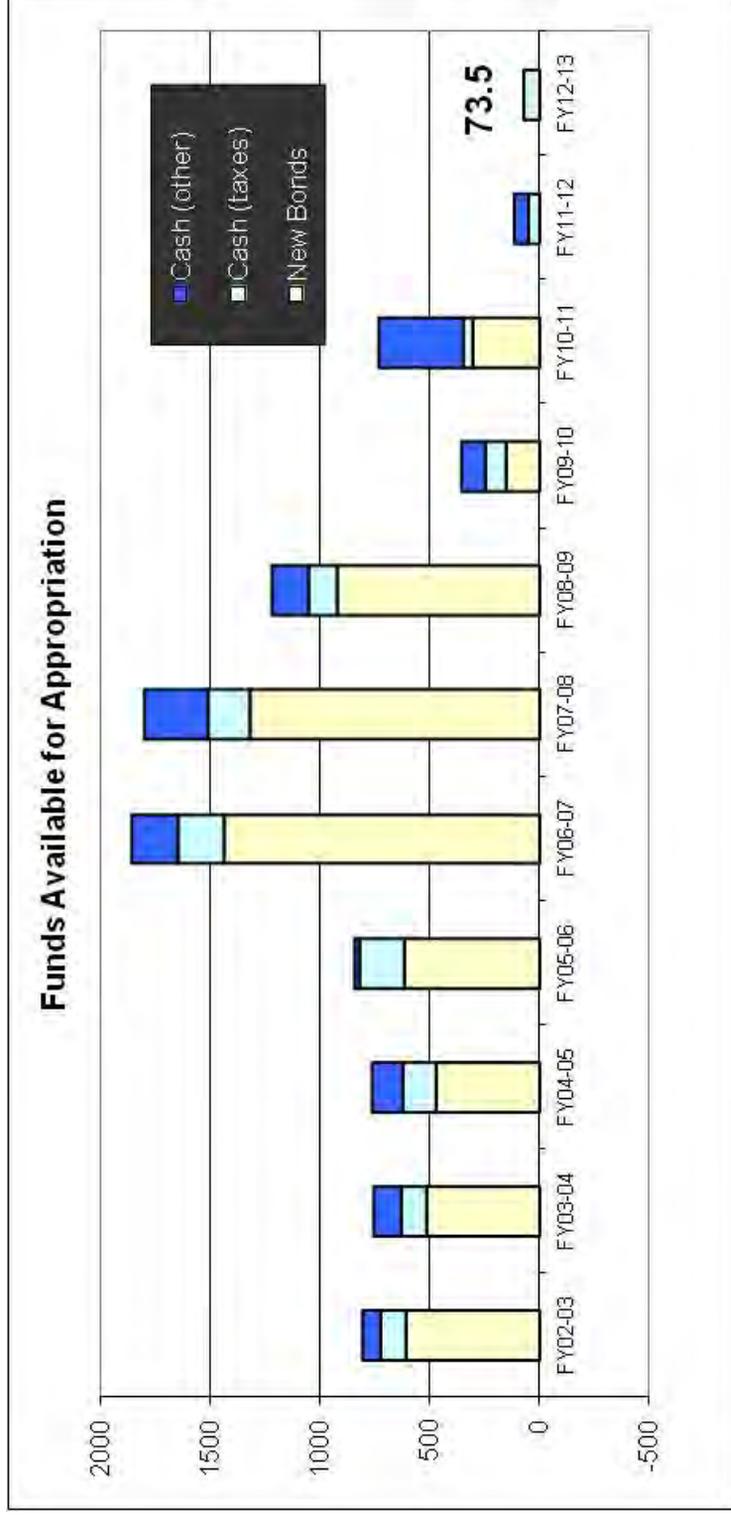


The total PECO estimate is comprised of two kinds of funds, bond proceeds and cash proceeds. Most of the new funding for PECO has come from the sale of bonds, and it is changes in the sizes of the bond sales which are the primary reason for the fluctuation of the PECO appropriation.

How the Gross Receipts Tax Becomes a PECO Appropriation



Expenditure Portion



Bonding is the tool that has allowed the state to leverage the amount that can be appropriated each year. Currently, PECO is the State's largest bond program with \$11.3 billion in outstanding debt (40.8% of the total \$27.7 billion in direct debt outstanding).

Communications Services Tax Shift to Gross Receipts Tax

Prior To Chapter 2010-149 LOF

	CST Sales Tax	Gross Receipts Tax	Total
Telecommunications Services			
Residential	0.00%	2.37%	2.37%
Commercial	6.80%	2.37%	9.17%
Wireless - Cellular	6.80%	2.37%	9.17%
Television Services			
Cable	6.80%	2.37%	9.17%
Satellite	6.80%*	2.37%	9.17%

2011-12 Revenues (millions \$)

Assuming Old Structure	
994.1	398.3
1,392.4	

Current Law

	CST Sales Tax	Gross Receipts Tax	Total
Residential	0.00%	2.37%	2.37%
Commercial	6.65%	2.52%	9.17%
Wireless - Cellular	6.65%	2.52%	9.17%
Cable	6.65%	2.52%	9.17%
Satellite	6.80%*	2.37%	9.17%

Under New Structure	
974.3	418.1
1,392.4	

Revenue Shift Attributable to Law Change

Sales Tax	Gross Receipts	Total
(19.8)	19.8	0.0

NOTE: Display does not include the 4% for Sales Tax that is transferred to the Local Government Half-Cent Clearing Trust Fund, bringing the total to 10.8%.

Agenda Items 9, 10

No materials

Agenda Item 11

Proposed Future Meetings

Wednesday, July 25, 2012

Tuesday, August 14, 2012

[No meetings in September]

Wednesday, October 31, 2012

Chapter 2012-70, Laws of Florida

CHAPTER 2012-70

Committee Substitute for House Bill No. 809

An act relating to communications services taxes; amending s. 202.105, F.S.; revising legislative intent; amending s. 202.11, F.S.; modifying definitions; removing the definition of the term “cable service”; adding a definition for the term “Internet access service”; revising the definitions of the terms “communication services,” “information service,” “sales price,” “service address,” and “video service”; amending ss. 202.125, 202.16, and 202.24, F.S.; conforming provisions to changes in terminology; amending s. 202.18, F.S.; removing a cross-reference to conform; amending s. 202.22, F.S.; revising provisions relating to a communications services dealer’s liability for tax underpayments that result from the incorrect assignment of service addresses to local taxing jurisdictions and providing requirements and conditions with respect thereto; prohibiting the Department of Revenue from denying a dealer of communications services a deduction of a specified amount as a collection allowance under certain circumstances; amending s. 202.231, F.S.; requiring the Department of Revenue to aggregate monthly and make available to the public on a jurisdiction-by-jurisdiction basis certain sales and net tax information; amending ss. 203.01 and 624.105, F.S.; conforming cross-references; providing for certain retroactive effect; creating the Communications Services Tax Working Group; housing the working group in the Department of Revenue for administrative purposes; providing for membership; limiting the reimbursement of members for per diem and travel expenses; providing issues that the working group will study; requiring the working group to hold meetings; providing for a report to the Governor and Legislature by a certain date; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 202.105, Florida Statutes, is amended to read:

202.105 Legislative findings and intent.—

(1) It is declared to be a specific legislative finding that the creation of this chapter fulfills important state interests by reforming the tax laws to provide a fair, efficient, and uniform method for taxing communications services sold in this state. This chapter is essential to the continued economic vitality of this increasingly important industry because it restructures state and local taxes and fees to account for the impact of federal legislation, industry deregulation, and the multitude of convergence of service offerings that is now taking place among providers offering functionally equivalent communications services in today’s marketplace. This chapter promotes the increased competition that accompanies deregulation by embracing a competitively neutral tax policy that will free consumers to choose a provider based on tax-neutral considerations. This chapter further spurs new

competition by simplifying an extremely complicated state and local tax and fee system. Simplification will lower the cost of collecting taxes and fees, increase service availability, and place downward pressure on price. New-found administrative efficiency is demonstrated by a reduction in the number of returns that a provider must file each month. By restructuring separate taxes and fees into a revenue-neutral communications services tax centrally administered by the department, this chapter will ensure that the growth of the industry is unimpaired by excessive governmental regulation. The tax imposed pursuant to this chapter is a replacement for taxes and fees previously imposed and is not a new tax. The taxes imposed and administered pursuant to this chapter are of general application and are imposed in a uniform, consistent, and nondiscriminatory manner.

Section 2. Section 202.11, Florida Statutes, is amended to read:

202.11 Definitions.—As used in this chapter, the term:

~~(1) “Cable service” means the transmission of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of any such programming service, regardless of whether the programming is transmitted over facilities owned or operated by the cable service provider or over facilities owned or operated by one or more other dealers of communications services. The term includes point-to-point and point-to-multipoint distribution services by which programming is transmitted or broadcast by microwave or other equipment directly to the purchaser’s premises, but does not include direct-to-home satellite service. The term includes basic, extended, premium, pay-per-view, digital, and music services.~~

~~(1)(2) “Communications services” means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video cable services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over-Internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added. The term does not include:~~

- ~~(a) Information services.~~
- ~~(b) Installation or maintenance of wiring or equipment on a customer’s premises.~~
- ~~(c) The sale or rental of tangible personal property.~~

(d) The sale of advertising, including, but not limited to, directory advertising.

(e) Bad check charges.

(f) Late payment charges.

(g) Billing and collection services.

(h) Internet access service, electronic mail service, electronic bulletin board service, or similar online computer services.

~~(2)~~(3) “Dealer” means a person registered with the department as a provider of communications services in this state.

~~(3)~~(4) “Department” means the Department of Revenue.

~~(4)~~(5) “Direct-to-home satellite service” has the meaning ascribed in the Communications Act of 1934, 47 U.S.C. s. 303(v).

~~(5)~~(6) “Information service” means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making available information via communications services, including, but not limited to, electronic publishing, web-hosting service, and end-user 900 number service. The term does not include any video, audio, or other programming service that uses point-to-multipoint distribution by which programming is delivered, transmitted, or broadcast by any means, including any interaction that may be necessary for selecting and using the service, regardless of whether the programming is delivered, transmitted, or broadcast over facilities owned or operated by the seller or another, or whether denominated as cable service or as basic, extended, premium, pay-per-view, digital, music, or two-way cable service.

(6) “Internet access service” has the same meaning as ascribed to the term “Internet access” by s. 1105(5) of the Internet Tax Freedom Act, 47 U.S.C. s. 151 note, as amended by Pub. L. No. 110-108.

(7) “Mobile communications service” means commercial mobile radio service, as defined in 47 C.F.R. s. 20.3 as in effect on June 1, 1999. The term does not include air-ground radiotelephone service as defined in 47 C.F.R. s. 22.99 as in effect on June 1, 1999.

(8) “Person” has the meaning ascribed in s. 212.02.

(9) “Prepaid calling arrangement” means the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered; and that are sold in predetermined units or dollars of which the number declines with use in a known amount.

(10) "Purchaser" means the person paying for or obligated to pay for communications services.

(11) "Retail sale" means the sale of communications services for any purpose other than for resale or for use as a component part of or for integration into communications services to be resold in the ordinary course of business. However, any sale for resale must comply with s. 202.16(2) and the rules adopted thereunder.

(12) "Sale" means the provision of communications services for a consideration.

(13) "Sales price" means the total amount charged in money or other consideration by a dealer for the sale of the right or privilege of using communications services in this state, including any property or other service, not described in paragraph (a), which is services that are part of the sale and for which the charge is not separately itemized on a customer's bill or separately allocated under subparagraph (b)8. The sales price of communications services may ~~shall~~ not be reduced by any separately identified components of the charge which ~~that~~ constitute expenses of the dealer, including, but not limited to, sales taxes on goods or services purchased by the dealer, property taxes, taxes measured by net income, and universal-service fund fees.

(a) The sales price of communications services includes ~~shall include~~, whether or not separately stated, charges for any of the following:

1. The connection, movement, change, or termination of communications services.
2. The detailed billing of communications services.
3. The sale of directory listings in connection with a communications service.
4. Central office and custom calling features.
5. Voice mail and other messaging service.
6. Directory assistance.
7. The service of sending or receiving a document commonly referred to as a facsimile or "fax," except when performed during the course of providing professional or advertising services.

(b) The sales price of communications services does not include charges for any of the following:

1. ~~An Any~~ excise tax, sales tax, or similar tax levied by the United States or any state or local government on the purchase, sale, use, or consumption of any communications service, including, but not limited to, a any tax imposed

under this chapter or chapter 203 which is permitted or required to be added to the sales price of such service, if the tax is stated separately.

2. ~~A~~ Any fee or assessment levied by the United States or any state or local government, including, but not limited to, regulatory fees and emergency telephone surcharges, which must ~~is required to~~ be added to the price of the ~~such~~ service if the fee or assessment is separately stated.

3. Communications services paid for by inserting coins into coin-operated communications devices available to the public.

4. The sale or recharge of a prepaid calling arrangement.

5. The provision of air-to-ground communications services, defined as a radio service provided to a purchaser ~~purchase~~s while on board an aircraft.

6. A dealer’s internal use of communications services in connection with its business of providing communications services.

7. Charges for property or other services that are not part of the sale of communications services, if such charges are stated separately from the charges for communications services.

8. ~~To the extent required by federal law,~~ Charges for goods or services that are not subject to tax under this chapter, including Internet access services but excluding any item described in paragraph (a), that ~~which~~ are not separately itemized on a customer’s bill, but that ~~which~~ can be reasonably identified from the selling dealer’s books and records kept in the regular course of business. The dealer may support the allocation of charges with books and records kept in the regular course of business covering the dealer’s entire service area, including territories outside this state.

(14) “Service address” means:

(a) Except as otherwise provided in this section:

1. The location of the communications equipment from which communications services originate or at which communications services are received by the customer;

2. In the case of a communications service paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, and in the case of third-number and calling-card calls, the term “service address” means the address of the central office, as determined by the area code and the first three digits of the seven-digit originating telephone number; or

3. If the location of the equipment described in subparagraph 1. is not known and subparagraph 2. is inapplicable, the term “service address” means the location of the customer’s primary use of the communications service. For purposes of this subparagraph, the location of the customer’s

primary use of a communications service is the residential street address or the business street address of the customer.

(b) In the case of video ~~able~~ services and direct-to-home satellite services, the location where the customer receives the services in this state.

(c) In the case of mobile communications services, the customer’s place of primary use.

(15) “Unbundled network element” means a network element, as defined in 47 U.S.C. s. 153(29), to which access is provided on an unbundled basis pursuant to 47 U.S.C. s. 251(c)(3).

(16) “Private communications service” means a communications service that entitles the subscriber or user to exclusive or priority use of a communications channel or group of channels between or among channel termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that ~~which~~ are provided in connection with the use of such channel or channels.

(17)(a) “Customer” means:

1. The person or entity that contracts with the home service provider for mobile communications services; or

2. If the end user of mobile communications services is not the contracting party, the end user of the mobile communications service. This subparagraph only applies for the purpose of determining the place of primary use.

(b) “Customer” does not include:

1. A reseller of mobile communications services; or

2. A serving carrier under an agreement to serve the customer outside the home service provider’s licensed service area.

(18) “Enhanced zip code” means a United States postal zip code of 9 or more digits.

(19) “Home service provider” means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile communications services.

(20) “Licensed service area” means the geographic area in which the home service provider is authorized by law or contract to provide mobile communications service to the customer.

(21) “Place of primary use” means the street address representative of where the customer’s use of the mobile communications service primarily occurs, which must be:

(a) The residential street address or the primary business street address of the customer; and

(b) Within the licensed service area of the home service provider.

(22)(a) “Reseller” means a provider who purchases communications services from another communications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile communications service.

(b) “Reseller” does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider’s licensed service area.

(23) “Serving carrier” means a facilities-based carrier providing mobile communications service to a customer outside a home service provider’s or reseller’s licensed service area.

(24) “Video service” means the transmission of video, audio, or other programming service to a purchaser, and the purchaser interaction, if any, required for the selection or use of a programming service, regardless of whether the programming is transmitted over facilities owned or operated by the video service provider or over facilities owned or operated by another dealer of communications services. The term includes point-to-point and point-to-multipoint distribution services through which programming is transmitted or broadcast by microwave or other equipment directly to the purchaser’s premises, but does not include direct-to-home satellite service. The term includes basic, extended, premium, pay-per-view, digital video, two-way cable, and music services has the same meaning as that provided in s. 610.103.

Section 3. Subsection (1) of section 202.125, Florida Statutes, is amended to read:

202.125 Sales of communications services; specified exemptions.—

(1) The separately stated sales price of communications services sold to residential households is exempt from the tax imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption does not apply to any residence that constitutes all or part of a transient public lodging establishment as defined in chapter 509, any mobile communications service, any video cable service, or any direct-to-home satellite service.

Section 4. Paragraph (a) of subsection (2) of section 202.16, Florida Statutes, is amended to read:

202.16 Payment.—The taxes imposed or administered under this chapter and chapter 203 shall be collected from all dealers of taxable communications services on the sale at retail in this state of communications services taxable under this chapter and chapter 203. The full amount of the taxes on a credit sale, installment sale, or sale made on any kind of deferred

payment plan is due at the moment of the transaction in the same manner as a cash sale.

(2)(a) A sale of communications services that are used as a component part of or integrated into a communications service or prepaid calling arrangement for resale, including, but not limited to, carrier-access charges, interconnection charges paid by providers of mobile communication services or other communication services, charges paid by a video cable service provider ~~providers~~ for the purchase of video programming or the transmission of video or other programming by another dealer of communications services, charges for the sale of unbundled network elements, and any other intercompany charges for the use of facilities for providing communications services for resale, must be made in compliance with the rules of the department. A ~~Any~~ person who makes a sale for resale which is not in compliance with these rules is liable for any tax, penalty, and interest due for failing to comply, to be calculated pursuant to s. 202.28(2)(a).

Section 5. Paragraph (c) of subsection (3) of section 202.18, Florida Statutes, is amended to read:

202.18 Allocation and disposition of tax proceeds.—The proceeds of the communications services taxes remitted under this chapter shall be treated as follows:

(3)

(c)1. Except as otherwise provided in this paragraph, proceeds of the taxes levied pursuant to s. 202.19, less amounts deducted for costs of administration in accordance with paragraph (b), shall be distributed monthly to the appropriate jurisdictions. The proceeds of taxes imposed pursuant to s. 202.19(5) shall be distributed in the same manner as discretionary surtaxes are distributed, in accordance with ss. 212.054 and 212.055.

2. The department shall make any adjustments to the distributions pursuant to this section which are necessary to reflect the proper amounts due to individual jurisdictions or trust funds. In the event that the department adjusts amounts due to reflect a correction in the situsing of a customer, such adjustment shall be limited to the amount of tax actually collected from such customer by the dealer of communication services.

3.a. ~~Notwithstanding the time period specified in s. 202.22(5),~~ Adjustments in distributions which are necessary to correct misallocations between jurisdictions shall be governed by this subparagraph. If the department determines that misallocations between jurisdictions occurred, it shall provide written notice of such determination to all affected jurisdictions. The notice shall include the amount of the misallocations, the basis upon which the determination was made, data supporting the determination, and the identity of each affected jurisdiction. The notice shall also inform all

affected jurisdictions of their authority to enter into a written agreement establishing a method of adjustment as described in sub-subparagraph c.

b. An adjustment affecting a distribution to a jurisdiction which is less than 90 percent of the average monthly distribution to that jurisdiction for the 6 months immediately preceding the department’s determination, as reported by all communications services dealers, shall be made in the month immediately following the department’s determination that misallocations occurred.

c. If an adjustment affecting a distribution to a jurisdiction equals or exceeds 90 percent of the average monthly distribution to that jurisdiction for the 6 months immediately preceding the department’s determination, as reported by all communications services dealers, the affected jurisdictions may enter into a written agreement establishing a method of adjustment. If the agreement establishing a method of adjustment provides for payments of local communications services tax monthly distributions, the amount of any such payment agreed to may not exceed the local communications services tax monthly distributions available to the jurisdiction that was allocated amounts in excess of those to which it was entitled. If affected jurisdictions execute a written agreement specifying a method of adjustment, a copy of the written agreement shall be provided to the department no later than the first day of the month following 90 days after the date the department transmits notice of the misallocation. If the department does not receive a copy of the written agreement within the specified time period, an adjustment affecting a distribution to a jurisdiction made pursuant to this sub-subparagraph shall be prorated over a time period that equals the time period over which the misallocations occurred.

Section 6. Subsections (5) and (6) of section 202.22, Florida Statutes, are amended to read:

202.22 Determination of local tax situs.—

(5) If a dealer of communications services does not use one or more of the methods specified in subsection (1) for determining the local taxing jurisdiction in which one or more service addresses are ~~a service address is located and:~~

(a) The dealer’s failure to use one or more of such methods results in a net aggregate underpayment of all taxes levied pursuant to s. 202.19 with respect to one or more tax periods that are being examined by the department under the provisions of this chapter; and

(b) The department has determined the misallocations between jurisdictions for all taxes levied pursuant to s. 202.19 and collected by the dealer with respect to any tax period being examined by the department; then,

the dealer of communications services may be held liable to the department for the net aggregate underpayment of any tax, and for including interest and

penalties attributable to the net aggregate underpayment of tax, which is due as a result of assigning one or more the service addresses address to an incorrect local taxing jurisdiction. Subject to the provisions of ss. 202.22(8), 202.34, and 202.35(3) ~~However, the dealer of communications services is not liable for any tax, interest, or penalty under this subsection unless the department has determined the net aggregate underpayment of tax for any tax period that is being examined, taking into account all underpayments and overpayments for such period or periods to the extent that such amount was collected and remitted by the dealer of communications services with respect to a tax imposed by another local taxing jurisdiction. Upon determining that an amount was collected and remitted by a dealer of communications services with respect to a tax imposed by another local taxing jurisdiction, the department shall adjust the respective amounts of the proceeds paid to each such taxing jurisdiction under s. 202.18 in the month immediately following such determination.~~

(6)(a) Pursuant to rules adopted by the department, each dealer of communications services must notify the department of the methods it intends to employ for determining the local taxing jurisdiction in which service addresses are located.

(b) Notwithstanding s. 202.28, if a dealer of communications services:

1. Employs a method of assigning service addresses other than as set forth in paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c), the deduction allowed to the dealer of communications services as compensation under s. 202.28 shall be 0.25 percent of that portion of the tax due and accounted for and remitted to the department which is attributable to such method of assigning service addresses other than as set forth in paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c).

2. Employs a method of assigning service addresses as set forth in paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c), the department may not deny the deduction allowed to the dealer of communications services as compensation allowed under s. 202.28 because the dealer assigned one or more service addresses to an incorrect local taxing jurisdiction.

Section 7. Subsection (3) is added to section 202.231, Florida Statutes, to read:

202.231 Provision of information to local taxing jurisdictions.—

(3) The gross taxable sales and the total net amount transferred to the jurisdiction, showing the net taxes remitted by dealers less the administrative fees deducted by the department contained in the monthly reports required by this section, shall be aggregated on a jurisdiction-by-jurisdiction basis, and the aggregate jurisdiction-by-jurisdiction information shall be made available by the department to the public through the department's website for each fiscal year this chapter has been in effect.

Section 8. Paragraphs (a) and (c) of subsection (2) of section 202.24, Florida Statutes, are amended to read:

202.24 Limitations on local taxes and fees imposed on dealers of communications services.—

(2)(a) Except as provided in paragraph (c), each public body is prohibited from:

1. Levying on or collecting from dealers or purchasers of communications services any tax, charge, fee, or other imposition on or with respect to the provision or purchase of communications services.

2. Requiring any dealer of communications services to enter into or extend the term of a franchise or other agreement that requires the payment of a tax, charge, fee, or other imposition.

3. Adopting or enforcing any provision of any ordinance or agreement to the extent that such provision obligates a dealer of communications services to charge, collect, or pay to the public body a tax, charge, fee, or other imposition.

Municipalities and counties may not negotiate those terms and conditions related to franchise fees or the definition of gross revenues or other definitions or methodologies related to the payment or assessment of franchise fees on providers of ~~cable~~ or video services.

(c) This subsection does not apply to:

1. Local communications services taxes levied under this chapter.

2. Ad valorem taxes levied pursuant to chapter 200.

3. Business taxes levied under chapter 205.

4. "911" service charges levied under chapter 365.

5. Amounts charged for the rental or other use of property owned by a public body which is not in the public rights-of-way to a dealer of communications services for any purpose, including, but not limited to, the placement or attachment of equipment used in the provision of communications services.

6. Permit fees of general applicability which are not related to placing or maintaining facilities in or on public roads or rights-of-way.

7. Permit fees related to placing or maintaining facilities in or on public roads or rights-of-way pursuant to s. 337.401.

8. Any in-kind requirements, institutional networks, or contributions for, or in support of, the use or construction of public, educational, or governmental access facilities allowed under federal law and imposed on providers

of cable or video service pursuant to any existing ordinance or an existing franchise agreement granted by each municipality or county, under which ordinance or franchise agreement service is provided ~~before~~ prior to July 1, 2007, or as permitted under chapter 610. ~~Nothing in~~ This subparagraph does not shall prohibit the ability of providers of cable or video service from recovering the ~~to recover~~ such expenses as allowed under federal law.

9. Special assessments and impact fees.

10. Pole attachment fees that are charged by a local government for attachments to utility poles owned by the local government.

11. Utility service fees or other similar user fees for utility services.

12. Any other generally applicable tax, fee, charge, or imposition authorized by general law on July 1, 2000, which is not specifically prohibited by this subsection or included as a replaced revenue source in s. 202.20.

Section 9. Paragraph (a) of subsection (1) of section 203.01, Florida Statutes, is amended to read:

203.01 Tax on gross receipts for utility and communications services.—

(1)(a)1. A tax is imposed on gross receipts from utility services that are delivered to a retail consumer in this state. ~~The Such~~ tax shall be levied as provided in paragraphs (b)-(j).

2. A tax is levied on communications services as defined in s. ~~202.11(1)~~ 202.11(2). ~~The Such~~ tax shall be applied to the same services and transactions as are subject to taxation under chapter 202, and to communications services that are subject to the exemption provided in s. 202.125(1). ~~The Such~~ tax shall be applied to the sales price of communications services when sold at retail, as the such terms are defined in s. 202.11, shall be due and payable at the same time as the taxes imposed pursuant to chapter 202, and shall be administered and collected pursuant to the provisions of chapter 202.

Section 10. Section 624.105, Florida Statutes, is amended to read:

624.105 Waiver of customer liability.—Any regulated company as defined in s. 350.111, any electric utility as defined in s. 366.02(2), any utility as defined in s. 367.021(12) or s. 367.022(2) and (7), and any provider of communications services as defined in s. ~~202.11(1)~~ 202.11(2) may charge for and include an optional waiver of liability provision in their customer contracts under which the entity agrees to waive all or a portion of the customer's liability for service from the entity for a defined period in the event of the customer's call to active military service, death, disability, involuntary unemployment, qualification for family leave, or similar qualifying event or condition. Such provisions may not be effective in the customer's contract with the entity unless affirmatively elected by the

customer. No such provision shall constitute insurance so long as the provision is a contract between the entity and its customer.

Section 11. The following changes made in this act are intended to be remedial in nature and apply retroactively, but do not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before the general effective date of this act:

(1) The changes made in section 2 of this act to subsection (13) of s. 202.11, Florida Statutes.

(2) The changes made in section 6 of this act to s. 202.22, Florida Statutes.

Section 12. Effective upon this act becoming a law:

(1) The Communications Services Tax Working Group is created and housed for administrative purposes within the Department of Revenue.

(2) The working group shall consist of 9 members as follows:

(a) The executive director of the Department of Revenue, or his or her designee, who shall serve as chairperson and as a nonvoting member and who shall appoint the remaining members.

(b) Four members, that may include, but not limited to, video service providers, direct-to-home satellite service providers, local phone service providers, and wireless providers who provide prepaid services.

(c) Two representatives of counties.

(d) Two representatives of municipalities.

(3) Members of the working group are not entitled to receive reimbursement for per diem and travel expenses other than reimbursement provided by their respective company, group, office, or agency.

(4) The working group shall:

(a) Review national and state tax policies relating to the communications industry;

(b) Review the historical amount of tax revenue that has been generated by the communications services taxes imposed or administered pursuant to chapter 202, Florida Statutes, for the purposes of determining the effect that laws passed in the past 5 years have had on declining revenues;

(c) Review the extent to which this revenue has been relied on to secure bonded indebtedness;

(d) Review the fairness of the state's communications tax laws and the administrative burdens it contains, including whether the applicability of the

tax laws is reasonably clear to communications services providers, retailers, customers, local government entities and state administrators;

(e) Identify options for streamlining the administrative system; and

(f) Identify options that remove competitive advantages within the industry as it relates to the state's tax structure without unduly reducing revenue to local governments.

(5) The working group shall prepare a report that addresses each issue specified in subsection (4). The group shall submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2013. The working group shall hold meetings as frequently as deemed necessary by the chair to produce the report.

Section 13. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2012.

Approved by the Governor April 6, 2012.

Filed in Office Secretary of State April 6, 2012.