

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 5, 2005**

**TO:** Honorable Phil King, Chair, House Committee on Regulated Industries

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB3179** by King, Phil (Relating to the promotion of fair competition and intermodal parity among communications service providers, including assessment on the sale of communications service and municipal and state authority with regard to the providers.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3179, As Introduced: a negative impact of (\$214,972) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$107,486)
2007	(\$107,486)
2008	(\$107,486)
2009	(\$107,486)
2010	(\$107,486)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE</i> <i>FUND</i> <b>1</b>	Probable Savings/ (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> <b>1</b>	Probable Revenue Gain/(Loss) from <i>New GR Dedicated -</i> <i>Intermodal Assessment</i> <i>Trust</i>	Change in Number of State Employees from FY 2005
2006	(\$151,243)	\$43,757	\$507,390,000	(1.0)
2007	(\$151,243)	\$43,757	\$592,523,000	(1.0)
2008	(\$151,243)	\$43,757	\$598,244,000	(1.0)
2009	(\$151,243)	\$43,757	\$604,251,000	(1.0)
2010	(\$151,243)	\$43,757	\$610,558,000	(1.0)

**Fiscal Analysis**

The bill would create Tax Code Chapter 153 to impose a 3.95 percent assessment on each taxable sale—as defined by Tax Code Chapter 151—of a communications service by a communications service provider.

The bill would establish GR Account—Intermodal Assessment Trust. The new assessment would be payable to the Comptroller, for deposit in the account, on a quarterly basis. The bill would require providers to submit information requested by the Comptroller for the purposes of administration and

enforcement. The bill would make the submitted information confidential; and municipalities could request the confidential information only for the purposes of economic forecasting or internal auditing of assessment distributions. Any information provided to municipalities would be confidential.

The bill would require the Comptroller to distribute, quarterly to municipalities, each municipality's share of the assessment. The Comptroller would distribute, quarterly to the rural development fund administered by the Office of Rural Community Affairs, assessments attributed to services provided in unincorporated areas.

The bill would provide severability should any portion of the bill be deemed unconstitutional or invalid, and it would allow the Comptroller to increase the assessment rate, not to exceed 5 percent, to maintain assessment collections in the event a provider was determined by law to be exempt from the assessment.

The bill would create Chapter 65, Utilities Code, to provide for the municipal regulation of providers. Municipalities would be prohibited from imposing fees or any nonmonetary compensation for the use of public right-of-way. The bill would require that providers indemnify municipalities for damages because of acts by the provider.

The bill would repeal Chapter 283, Local Government Code, relating to management of public right-of-way used by telecommunications provider in municipality, and Chapter 62, Utilities Code, relating to broadcaster safeguards.

## **Methodology**

Revenue estimates were based on the Comptroller's 2006-07 *Biennial Revenue Estimate* for the telecommunications infrastructure assessment, less equipment sales, and the Comptroller's Office taxable sales data for cable television, pay-per-view television, and satellite television. All estimates were adjusted for federal pre-emption for internet access, quarterly implementation and industry growth.

The bill would require the Public Utility Commission (PUC) to cease existing oversight activities regarding right-of-way compensation to municipalities, including enforcement activities. This will reduce the need for 0.25 Attorney III position, 0.5 Administrative Technician III position, and 0.25 Program Specialist III position at the PUC (\$43,757 in savings each fiscal year), and would reduce the PUC's penalty assessments by \$151,243 each fiscal year.

**Note:** This legislation would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

**Note:** The bill would require the Comptroller to distribute a portion of the assessment collections to the rural development fund, which does not exist.

**Note:** The bill does not contain an effective date. For the purposes of this estimate, a September 1, 2005 effective date was assumed.

## **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 357 Office of Rural Community Affairs, 473 Public Utility Commission of Texas

**LBB Staff:** JOB, SD, JRO, WP, RB, SM, DLBa