

SENATE BILL REPORT

SHB 2672

AS REPORTED BY COMMITTEE ON ENERGY & UTILITIES, FEBRUARY 27, 1992

Brief Description: Initiating a study of the tax status of cellular communications.

SPONSORS: House Committee on Revenue (originally sponsored by Representatives Wang, Ebersole, Ballard, Brumsickle and Wynne)

HOUSE COMMITTEE ON REVENUE

SENATE COMMITTEE ON ENERGY & UTILITIES

Majority Report: Do pass.

Signed by Senators Thorsness, Chairman; Saling, Vice Chairman; Jesernig, Nelson, Roach, Stratton, Sutherland, and Williams.

Staff: Phil Moeller (786-7445)

Hearing Dates: February 25, 1992; February 27, 1992

BACKGROUND:

Cellular telephones are mobile or portable devices that are part of what the Federal Communications Commission calls "Domestic Public Cellular Radio Telecommunications Service." Cellular telephone systems divide service areas into relatively small "cells," using multiple transmitter/receiver locations (cell sites). These cell sites are connected with each other and the ordinary telephone network in a manner that allows a cellular telephone user to move from one cell to another while maintaining a telephone connection.

Cellular telephony is a rapidly expanding field. Some industry projections indicate one out of five Americans will be cellular telephone users by the year 2000. Cell sites are proliferating rapidly and may soon be spaced under two miles apart, with antennas on utility poles or buildings instead of the towers presently used.

Cellular telephone systems are subject to property tax in the same manner as any other property. Cellular telephone devices and equipment are subject to sales and use taxation in the same manner as other tangible personal property.

Cellular telephone services represented by monthly and per-call charges are included in the definition of "telephone services" that are subject to sales and use taxes. Because telephone services are taxable as retail sales, cellular companies pay state B&O taxes on gross receipts at the retailing rate of 0.471 percent. There is no state utility tax on telephone services. However, cities impose utility

taxes on utility services, including "network telephone services," which includes cellular telephone service. City utility rates may not exceed 6.0 percent for telephone, electrical energy, natural gas, and steam energy services after 1992 unless the voters approve a higher rate. The rate on water, sewer, garbage, and cable television services is not limited.

Due to the mobile nature of cellular telephones, there are substantial questions about which city has a right to tax revenue from any particular call.

Several "user-fee" type taxes are presently levied on standard telephone access lines. Cellular telephone service is not subject to these per-line taxes which include: up to 50 cents per month to pay for local 9-1-1 emergency service; 20 cents per month to pay for statewide enhanced 9-1-1 emergency service; 10 cents per month to pay for hearing-impaired statewide relay service; and 5 cents per month to pay for the telephone assistance program.

SUMMARY:

The Department of Revenue is directed to study and define cellular communications, and recommend to the Legislature how cellular communications should be taxed. The department is to form an advisory committee to assist in the study. The committee is to have balanced representation from government and industry. The department is to report interim findings to the Legislature by December 1, 1992, with a final report due December 1, 1993. If funding for this study is not provided in the supplemental operating budget this year, the bill is null and void.

Appropriation: none

Revenue: none

Fiscal Note: available

Effective Date: The bill contains an emergency clause and takes effect immediately.

TESTIMONY FOR:

This study will clarify the tax status of cellular telephones. It will provide needed certainty to taxing entities and the cellular industry.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Daurell Bell, McCaw-Cellular One; Steve Gano, Cellular One; Cliff Webster, US West New Vector Group Inc.; Russ Brubaker, Will Rice, Dept. of Revenue; Noel Mhyre, 911/E911, ADCO & NENA