BILL NO.: Senate Bill 567

TITLE: Telecommunications Taxes – Reform Commission and Moratorium

POSITION: **SUPPORT WITH AMENDMENTS**

DATE: March 9, 2012

COMMITTEE: Budget and Taxation

CONTACT: Andrea Mansfield

The Maryland Association of Counties (MACo) **SUPPORTS** SB 567 **WITH AMENDMENTS**. This bill would establish a 13 member Telecommunications Tax Reform Commission to assess the feasibility and fiscal implications for State and local governments of a competitively neutral telecommunications tax and fee system that encourages investment in broadband networks and eliminates the disparate treatment of similar telecommunications service providers. The bill also imposes a far-reaching moratorium on State and local governments imposing new, or raising existing, telecommunications taxes and fees.

Whereas, the establishment of a commission to examine these issues has no direct effect on local governments, they have a vested interest in the resulting recommendations. Currently, five jurisdictions impose local telecommunications taxes generating $143 million in revenue, and all but five jurisdictions impose a cable franchise fee, resulting in $63.4 million in revenue. In addition, the commission will be examining State and local property taxes, local government's largest revenue source, as a part of its charge. Local governments stand to lose quite a bit if these issues are not looked at carefully and their interests are not protected.

The possible fiscal effects of this Commission could not be coming at a worse time. Local governments have foregone approximately $1.8 billion in State support since FY 2010, with the non-education segment of county government suffering the deepest blows. Now, the Governor's proposed budget plan seeks a massive shift of teacher pension costs to county governments. These costs, totaling $239 million for FY 2013, are expected to grow to more than $300 million in FY 2014 and continue to grow in costs each year thereafter, leaving the already weakened county budgets with even further burdens. When the costs of the assessment shift are added to these figures, local governments may be required to accommodate well over $2 billion in reductions and cost shifts since FY 2010. The possibility of more revenue loss is a grave concern. Therefore, MACo would like to ensure the Commission is balanced in its membership and the appropriate issues are being examined.

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Local governments will be suggesting a number of changes to change the scope of this Commission, all of which are supported by MACo. MACo would like to focus its comments in the following areas.

Eliminate the Moratorium

There is no need to impose a moratorium to achieve the stated purpose of this bill. Study commissions meet all the time to study revenue streams without imposing moratoriums. MACo views this as an intrusion into local taxing authority as it raises significant “division of powers” concerns about the appropriate State and local roles for local decision-making.

In addition, there are concerns that a moratorium could affect local government’s ability to negotiate new competitive cable franchises.

Expand Representation on the Commission

The Commission is to be composed of 13 individuals, 5 of which represent the telecommunication carriers. Local governments only have two representatives. Considering the possible fiscal ramifications and the differing demographics and use of telecommunication services across the State, the number of local representatives should be expanded to provide for adequate geographic and county/municipal representation.

Limit the Scope of the Commission’s Review

Countless miles of local rights-of-way and public infrastructure are affected by the various carriers and service providers under the scope of these proposals. Further, the presence of local franchise agreements and fee arrangements are frequently connected to community guidance to serve specific geographic areas, effecting greater public access than might be found with a more purely market based solution. These franchise agreements and fee arrangements are not taxes, and therefore they should not be included as a part of this study.

Expand the Time Frame of the Commission’s Review

The bill directs the commission to collect all data by September 2012 and make recommendations by January 2013 to enable the General Assembly to consider telecommunications tax and fee restructuring legislation during the 2013 session. This range of complicated issues should be discussed in a very thoughtful and balanced manner. MACo contends this is an inadequate time frame to review all the relevant issues involved in telecommunications tax restructuring.

For these reasons, MACo urges the Committee to **SUPPORT** SB 567 **WITH AMENDMENTS**.

Offered by MACo:

Amendments SB 567
(First Reading File Bill)

Amendment No. 1
On page 2, in lines 6, 9, 11, 17, 20, 22, 23, 24, 25, 26, 29, 30, and 32, and on page 4, in lines 3, 7, 23, and 27, strike "and fee."

Amendment No. 2
On page 3 of the bill, in line 13, strike "two" and insert "four."

Amendment No. 3
On page 4, in lines 3 and 4, strike "broadband networks" and insert "emerging technologies."
In line 15, following ";" insert "AND," strike lines 16 and 17, and in line 18, strike "or fee."

Amendment No. 4
On page 5, in line 17, strike "2013" and insert "2014" and strike lines 20 through 34.

Amendment No. 5
On page 6, in line 2, strike "1" and insert "2" and in line 3, strike "2013" and insert "2014."