

Department of Finance and Administration

Legislative Impact Statement

Bill: HB2164

Amendment Number: Engrossment 4/2/13 (Am #H1)

Bill Subtitle: TO CREATE AN EXEMPTION FROM THE SALES AND USE TAX FOR EQUIPMENT AND OTHER ITEMS AND SERVICES USED TO PROVIDE WIRELESS BROADBAND.

Resources Required :

None

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Education of staff for the new exemption and adoption of rules to reflect the exemption.

Legal Analysis :

Amendment H1 to HB2164, creates a sales and use tax exemption for "machinery and equipment used directly in the provisioning or transmission of broadband communications service by a wireless provider." Broadband communications service is defined to mean selling the transmission of voice, data, video, or other electronic information at a rate capable of speeds that are at least 4 megabits per second for download and 1 megabit per second for upload, but does not include sales of radio and television broadband service.

Machinery and equipment is defined to include a non-exhaustive list of items ranging from antennas to storage devices, to transformers and power transport equipment (which could include heavy equipment as the term power transport equipment is not defined). Provisioning or transmission includes the origination, transport, multiplexing, cross-connecting, routing, coding and decoding, and termination of a transmission signal. Entities that sell cellular, personal communications systems, and any service regulated under 47 CFR 20, will be eligible for the exemption.

The bill contains language in subdivision (b)(4)(B) that likely is intended to exclude from the benefit of the exemption a person or entity that contracts and pays for broadband communication service for resale to guests or tenants. The bill does not include examples of machinery and equipment that would not be considered to be used directly in the provisioning or transmission of broadband communications services. A rule will likely be required to interpret the act as it relates to eligible wireless service providers and eligible machinery and equipment.

The act will be effective on and after January 1, 2014.