

SUBJECT: Raising the cap on sales and use tax rebates for communication equipment

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — D. Bonnen, Button, Darby, Murphy, Parker, Springer, Wray

2 nays — Martinez Fischer, C. Turner

2 absent — Y. Davis, Bohac

SENATE VOTE: On final passage, May 20 — 27-3 (Burton, Schwertner, V. Taylor)

WITNESSES: (*On House companion bill, HB 2199*)

For — Leslie Ward, AT&T; Scott Mackey, AT&T, Sprint, T-Mobile U.S., U.S. Cellular, Verizon Wireless; Robert Howden, Texans for Economic Progress; James LeBas, Texas Cable Association; Sandra Haverlah, Texas Consumer Association; John Kennedy, Texas Taxpayers and Research Association; Richard Lawson, Verizon; (*Registered, but did not testify*: Leo Munoz, Comcast; E. Jason Peavler, Communications Workers of America Local 6132; Currie Hallford, CWA - TPLC, Texas Political Legislative Committee; Blanca Laborde, Level 3 Communications; Chris Shields, San Antonio Chamber of Commerce; Velma Cruz, Sprint; Sarah Matz, TechAmerica; Caroline Joiner, TechNet; Cathy Dewitt, Texas Association of Business; Jeff Burdett, Texas Cable Association; Nora Belcher, Texas e-Health Alliance; Weldon Gray, Texas Statewide Telephone Cooperative, Inc.; Douglas Doerr, Texas Technology Consortium; Lyn Kamerman and Ian Randolph, Texas Telephone Association; Max Jones, the Greater Houston Partnership; Todd Baxter, Time Warner Cable; Jennifer Fagan, Windstream Communications)

Against — (*Registered, but did not testify*: Dick Lavine, Center for Public Policy Priorities)

On — Brad Reynolds, Texas Comptroller of Public Accounts;
(*Registered, but did not testify*: Eric Stearns, Texas Comptroller of Public Accounts)

BACKGROUND: In 2013, the 83rd Legislature enacted HB 1133 by Otto, which created Tax Code, sec. 151.3186. This section entitles providers of cable television, Internet access, or telecommunications services to a refund of sales and use tax for certain tangible property used in the provision of services.

The total amount of the refund for all providers cannot exceed \$50 million each calendar year. If the total amount of tax paid by eligible providers or subsidiaries exceeds \$50 million, a pro rata share of \$50 million is distributed to each eligible provider.

DIGEST: SB 1009 would amend Tax Code, sec. 151.3186 to increase the maximum amount of tax rebates to \$75 million. If the total amount of tax paid by qualified providers or subsidiaries exceeded \$75 million, a pro rata share of \$75 million would be distributed to the qualified providers and subsidiaries.

The bill would take effect September 1, 2015.

SUPPORTERS SAY: SB 1009 would increase the maximum refund of the sales and use tax that can be distributed to providers of cable, Internet, and telecommunication services to continue to spur investments in these markets in Texas. In the first year this refund was available, the eligible sales and use tax paid by providers exceeded \$50 million within the first four months. This cap should be raised to build on the momentum garnered last session with enactment of HB 1133 by Otto.

Because other states offer more significant refunds for telecommunication providers, these companies may choose to move operations to other states. This refund encourages communication providers to make further investments in Texas. Expanding communication infrastructure investments in Texas would increase revenue for education and health care in the long run by improving the overall business climate. SB 1009 would further encourage investments in communication networks in the state.

OPPONENTS
SAY:

The tax refund expansion under SB 1009 would take \$50 million out of general revenue in the upcoming biennium. This money could be better put toward needs in critical areas that have been underfunded, such as education and health care.

Because providers do not know the size of the refund they will receive, it is unlikely that it factors into their infrastructure investment planning decisions. These providers probably would continue to make infrastructure investments in Texas with or without the rebates.

In addition, industry representatives have indicated that there is no good way to report and measure the effect of these refunds on economic activity. If this program is expanded, the refunds should come with reporting and evaluation requirements for the qualified providers.

NOTES:

The Legislative Budget Board estimates that SB 1009 would have a negative impact to general revenue of \$50 million through fiscal 2016-17.