

HB 2606 -- MUNICIPAL TELECOMMUNICATIONS BUSINESS LICENSE TAX
MODERNIZATION ACT

SPONSOR: McGirl

Currently, all telecommunication companies must provide information on the amount of municipal business license tax which they have paid and an itemized list establishing their gross receipts for the previous four quarters in each municipality. The total amount of tax collected for the previous fiscal year of taxable gross receipts from telecommunications companies is then provided to the Department of Revenue (DOR) and State Auditor. This bill repeals these provisions.

Beginning January 1, 2025, DOR shall not list municipalities that imposed a flat fee instead of a tax or fee that was based on gross receipts as the municipality's business license tax.

Beginning July 1, 2025, all business license taxes must not exceed gross receipts of telecommunications companies for the retail sale of telecommunications services. Any municipality that imposes a business license tax on gross receipts in excess of telecommunications services, including interstate or international telecommunications services, will be preempted and treated as null and void.

Currently, business license taxes are based on the gross receipts subject to sales tax of telecommunications services. The collection of those taxes must be in compliance with Article X, Section 22 of the Missouri Constitution (Hancock Amendment). If a municipality determines that the gross receipts percentage rate should be increased in order to maintain compliance, such an increase will be made by way of a vote of the people in that municipality. The tax base is then determined by a formula as described in statute. This bill repeals these provisions.

This bill sets the maximum rate of taxation on gross receipts of telecommunications companies for the retail sale of telecommunication services at 5% for bills rendered on or after July 1, 2025.

Currently, any municipality with an ordinance imposing a business license tax on telecommunications companies which include the words "wireless," "cell phones," or "mobile phones" and collects such tax from wireless telecommunications providers is not required to adjust its business license tax rate and is not subject to certain guidelines as described in statute. Any municipality with an ordinance or an amendment to an ordinance imposing a business license tax on telecommunications companies prior to a certain

date, and such ordinance included the words "wireless," "cell phones," or "mobile phones" and had not limited its tax to local exchange telephone service or landlines and collects such tax from wireless telecommunications providers is not required to adjust its business license tax rate. This bill repeals these provisions.

Currently, telecommunications companies are entitled to full immunity from, and will not be liable to, a municipality for the payment of disputed amounts of business license taxes prior to July 1, 2006, but such immunity and release from liability does not apply to any business license tax imposed in accordance with law after July 1, 2006. This bill repeals these provisions.

This bill further states that the Municipal Telecommunications Business License Tax Modernization Act (MTBLTM) applies to an open-ended class of municipalities, consistent with the Missouri Constitution and certain court cases interpreting such provisions of the Constitution, and that the MTBLTM covers all telephonic services, regardless of the type of technology used to provide the services. This bill also states that the MTBLTM reaffirms legislative intent that gross receipts from the provision of interstate or international telecommunications service in Missouri are not subject to the business license tax.

This bill states that the MTBLTM does not authorize the adoption of a new tax or the increase of an existing tax, and that no provision of the MTBLTM can be construed to:

- (1) Authorize the expansion of any business license tax base by a municipality;
- (2) Authorize the increase of any business license tax rate by a municipality; or
- (3) Otherwise implicate Article X, Section 22 of the Missouri Constitution.

The bill defines "gross receipts" and adds telephone service, telecommunications, local exchange service, local exchange telephone transmission service, exchange telephone service, mobile telecommunications service, and voice over internet protocol services to the definition of "telecommunications service".