

SS SCS HCS HB 209 -- SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS
BUSINESS LICENSE TAX AND THE STATE HIGHWAY UTILITY RELOCATION ACT

This bill authorizes the simplified municipal telecommunications business license tax. After July 1, 2006, any municipality may impose this tax on a telecommunications company for the privilege of doing business within its borders. The telecommunications company may pass the tax onto its retail customers only if the company itemizes the tax on the customer's bill. The Director of the Department of Revenue will publish a list of the municipalities imposing this tax.

The maximum rate of the gross receipts percentage for any municipality is 5% unless the actual calculated rate is greater than 5%. If the calculated rate is greater than 5%, the maximum rate of the gross receipts percentage for the municipality is adjusted to be revenue neutral based on revenues collected and forecasted for July 1, 2006, to June 30, 2008; half of the difference between the determined rate and 5% for July 1, 2008, to June 30, 2010; and 5% for July 1, 2010, and thereafter.

The bill establishes the State Highway Utility Relocation Act; changes the laws regarding highway right-of-ways; establishes a procedure for the relocation of utilities from highway right-of-ways in connection with highway construction projects; and allows certain utility companies and services, including cable television and Internet services, to place their facilities or systems within the right-of-ways of any state highway, county road, or other political subdivision. This portion of the bill has an effective date of January 1, 2006, and does not apply to construction projects having a letting date prior to December 31, 2005.

Upon completion of the initial design of a construction project, the Highways and Transportation Commission will provide at least one set of project plans to each owner of a utility facility showing the location of the owner's utility facilities and the utility facilities of other owners in relation to the work required for the project.

Within 120 days of receiving the completed project plan from the commission, the owner will provide the commission with a relocation plan. The plan will include a description of work to be done in relocating the owner's utility facilities and whether the work or a portion of the work must be coordinated with or is contingent upon work being performed by other utility owners or the contractor of the commission. The plan will specify when the work will start and the number of days estimated to complete the work.

The commission will review the plan to ensure compatibility with permit requirements, the project plan, and the anticipated bid letting date and notice to proceed for the project. The

commission will notify the owner in writing within 30 days of receiving the plan whether it is acceptable. The removal and relocation of utility facilities will be at the owner's expense unless otherwise provided for by the commission. If the owner fails to relocate its utilities in accordance with the relocation plan, the commission may remove and relocate the facilities at the expense of the owner.

Any home rule city having a population of 60,000 or greater or any charter county of the first classification may adopt ordinances or regulations consistent with the bill regarding the relocation of utility facilities located within the right-of-way of streets, highways, or roads under their respective jurisdiction. Any ordinance, policy, resolution, or regulation adopted must not infringe upon, negate, or otherwise abrogate an owner's right to construct, own, operate, and maintain utility facilities within the right-of-ways of the political subdivision that the owner had prior to the adoption of the ordinance, policy, resolution, or regulation.