

SUBJECT: Exempting from sales-and-use taxes pay phone calls paid by coin

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 5 ayes — Keffer, Ritter, Flores, Paxton, Pitts

0 nays

4 absent — Otto, Bonnen, Y. Davis, Peña

WITNESSES: For — Scott Pospisil, Texas Pay phone Association

Against — None

BACKGROUND: Tax Code, sec. 151.0101 defines taxable services for the purpose of assessing state and local sales-and-use taxes. Telecommunications services are included under the definition of taxable services. The definition “telecommunications services” in sec. 151.0103 excludes:

- data and information storing, reception, and processing;
- the sale and/or use of prepaid calling cards; and
- Internet access service.

DIGEST: HB 1459 would amend Tax Code, sec. 151.0103 to exclude from the definition of taxable “telecommunications services” a phone call paid by coin made from a pay phone. This exemption would apply only to the portion of the sales price of the telecommunications service paid by coin.

The bill would take effect September 1, 2007, and would apply to tax liability accruing on or after that date.

SUPPORTERS SAY: By exempting from sales-and-use taxes a phone call made from a pay phone and paid for with coins, HB 1459 would provide a fair level of tax relief to a struggling and important industry. Unlike other telecommunications service providers, a pay phone operator is unable to pass sales-and-use taxes through to the consumer and must absorb those fees as a cost against its gross receipts.

The pay phone industry has suffered a 60 percent reduction in gross revenue in the last five years, largely due to competition from new technology. Although sales-and-use taxes on pay phone calls raised tens of millions of dollars when it was first imposed in the 1980s, state revenue from this source has declined dramatically as pay phone operators have been forced out of business. While the loss in revenue for the state under HB 1459 would be minor and would decline over time, this narrow exemption could make the difference in extending the life of the small businesses that provide this important service.

Although their use has diminished, pay phones remain an important telecommunications service to many Texans. Pay phones are especially important in emergency situations when people lack access to mobile phones or other telecommunications options.

**OPPONENTS
SAY:**

According to the Legislative Budget Board, HB 1459 would cause a loss to the state of \$2.5 million in general revenue-related funds in the fiscal 2008-09. Any loss in state revenue must be accounted for by raising taxes or cutting services, so lawmakers carefully should consider any exemption such as the one offered under HB 1459.

NOTES:

The companion bill, SB 1022 by Janek, has been referred to the Senate Finance Committee.