

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2991

STATE OF NEW JERSEY

DATED: JUNE 16, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2991.

This bill would clarify the application of the business personal property tax on local exchange telephone companies that were subject to the tax as of April 1, 1997. This bill clarifies the changes made in 1997 to the business personal property tax that defined local exchange telephone companies that were subject to that tax on April 1, 1997. The Tax Court, in Verizon New Jersey Inc. v. Borough of Hopewell, which was decided on June 26, 2012, incorrectly construed the plain meaning of the language of the statutory change made in 1997 in a manner inconsistent with Legislative intent. That statutory change was intended to permanently make part of a municipality's property tax base the business personal property of all incumbent local exchange companies that were then subject to that tax and were a telecommunications carrier then meeting the definition of providing dial tone and access to 51 percent of a local telephone exchange. Local exchange telephone companies have taken advantage of the Tax Court's interpretation of the statute and informed municipalities in which their business personal property is located that it will no longer pay tax on that business personal property, such as equipment, utility poles, cables and more in any given municipality where it claims on an annual basis that it does not provide 51 percent or more of landline service to its residents. This unintended erosion of the local property tax base in the affected municipalities impacts all other local property taxpayers in these municipalities.

This bill will restore the local property tax status quo intended to be determined in 1997 by revising the definition of "local exchange telephone company" to mean a telecommunications carrier which held the regional monopoly on landline service before the market was opened to competitive local exchange carriers by the federal Telecommunications Act of 1996, or the corporate successors of such a local exchange telephone company. This will accomplish the following purposes: first, it will require that the dominant telecommunications carrier in each region pay the business personal property tax on its business personal property regardless of the percentage of a local telephone exchange that it serves, and will permanently include that business personal property in the tax bases of the municipalities in which it is located.

The bill would also require that if a municipality is the prevailing party in a court proceeding between it and a local exchange telephone company concerning the taxation of business personal property pursuant to R.S.54:4-1 following a court decision, settlement, or other resolution of that proceeding, the municipality, and any related amicus entities, shall be awarded attorney's fees as costs to the local exchange telephone company.

FISCAL IMPACT:

The Office of Legislative Services (OLS) anticipates that the bill's more restrictive standard for business personal property of local exchange telephone companies to be exempt from local property taxation will cause these companies to file fewer business personal property tax appeals. As a result of the anticipated reduction in the number of appeal filings, counties and the State Judiciary will incur indeterminate recurring declines in filing fee revenue. Fewer tax appeals will also reduce the related caseloads of municipalities, county boards of taxation, and the State Judiciary. The lower caseloads, in turn, have the potential to decrease recurring municipal, county, and State operating expenditures by indeterminate amounts.

Municipal revenues will increase by an indeterminate recurring amount from the awarding of attorney fees to any municipality that prevails in a tax appeal concerning the business personal property of a local exchange telephone company.

Any growth in a jurisdiction's property tax base does not increase the property tax revenue of affected units of local government but reallocates the property tax levy of the units of local government among property taxpayers.