

AMENDED IN ASSEMBLY JUNE 20, 2001

AMENDED IN SENATE MAY 1, 2001

AMENDED IN SENATE APRIL 24, 2001

**SENATE BILL**

**No. 394**

**Introduced by Senator Sher**

(Principal coauthor: Assembly Member John Campbell)

February 21, 2001

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An act to amend and repeal Section 65004 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 394, as amended, Sher. Internet Tax Freedom Act: continuation.

The California Internet Tax Freedom Act prohibits, with specified exceptions, the imposition, assessment, or attempt to collect (1) a tax on Internet access, Online Computer Services, or the use of the Internet or Online Computer Services, (2) a bit or bandwidth tax, or (3) any discriminatory tax on Online Computer Services or Internet access. This act provides that it is to become inoperative on January 1, 2002.

This bill instead would provide that the act shall remain in effect only until January 1, 2004, and as of that date is repealed.

~~This bill also would make legislative findings and declarations regarding the need to review telecommunications levies in California, and would require the Legislative Analyst to prepare a report to describe, analyze, and evaluate existing telecommunications levies in California.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65004 of the Revenue and Taxation  
2 Code is amended to read:

3 65004. (a) Except as provided in subdivision (b), no city,  
4 county, or city and county may impose, assess, or attempt to collect  
5 any of the following:

6 (1) A tax on Internet access, Online Computer Services, or the  
7 use of Internet access or any Online Computer Services.

8 (2) A bit tax or bandwidth tax.

9 (3) Any discriminatory tax on Online Computer Services or  
10 Internet access.

11 (b) The prohibition in subdivision (a) against the imposition of  
12 taxes shall not apply to any new or existing tax of general  
13 application, including, but not limited to, any sales and use tax,  
14 business license tax, or utility user tax that is imposed or assessed  
15 in a uniform and nondiscriminatory manner without regard to  
16 whether the activities or transactions taxed are conducted through  
17 the use of the Internet, Internet access, or Online Computer  
18 Services.

19 (c) A cable television franchise fee may not be imposed on  
20 Online Computer Services or Internet access delivered over a  
21 cable television system if the Federal Communications  
22 Commission, by issuing a final order, or a court of competent  
23 jurisdiction, by rendering a judgment enforceable in California,  
24 finds that those are not cable services as defined in Section 522(6)  
25 of Title 47 of the United States Code and are, therefore, not subject  
26 to a franchise fee. However, if that final order or judgment is  
27 overturned or modified by further administrative, legislative, or  
28 judicial action, that action shall control. The operation of this  
29 subdivision may be suspended by contract between a cable  
30 television franchising authority and a cable television operator.

31 (d) This part shall remain in effect only until January 1, 2004,  
32 and as of that date is repealed.

33 ~~SEC. 2. (a) The Legislature finds and declares that there is a~~  
34 ~~need for a comprehensive review of California's different~~  
35 ~~telecommunications levies. This review is necessary to ensure that~~  
36 ~~the rationales underlying these levies are valid in light of~~  
37 ~~Internet-related developments, and other telecommunications~~



1 ~~developments related to the telecommunications industry's~~  
2 ~~competitive structure.~~

3 ~~(b) To assist the Legislature in this review, the Legislative~~  
4 ~~Analyst shall prepare a report reviewing California's~~  
5 ~~telecommunications levies, including, but not limited to, local~~  
6 ~~franchise fees, local utility user taxes, and state~~  
7 ~~telecommunications charges. In this report, the Legislative~~  
8 ~~Analyst shall describe, analyze, and evaluate all of the following:~~

9 ~~(1) The rationale underlying these telecommunications levies.~~

10 ~~(2) The equitable treatment of taxpayers under these~~  
11 ~~telecommunications levies.~~

12 ~~(3) Any other issues relating to telecommunications levies that~~  
13 ~~he or she deems relevant.~~

