



February 11, 2016

Local Governments Urge Senators to Remove PITFA from Customs Conference Report

On February 9, Senate leaders announced a deal that would compromise local governments' ability to deliver essential services to our communities. Under the deal Senators dropped their objections to the inclusion of the *Permanent Internet Tax Freedom Act (PITFA)* in the *Trade Facilitation and Trade Enforcement Act* conference report (HR 644) in exchange for a commitment from Senate majority leadership to provide floor time for a discussion on the *Marketplace Fairness Act (S 698)* later this year.

Let us be clear about what this deal means. This deal would permanently remove local tax policy control on telecommunications services in exchange for mere consideration of the *Marketplace Fairness Act*, with no guarantee as to the outcome. This is a very bad deal for local governments, given the fact that the amount of forgone revenue that many local governments are currently collecting from telecommunications and cable providers would vastly dwarf any potential revenue we could expect to secure through enactment of the *Marketplace Fairness Act*. In general, telecommunications revenue is received directly at the local level, whereas sales and use taxes are received at the state level, where slight portions are distributed to local governments.

Over time, *PITFA* will essentially exempt an entire, and enormously fast-growing and prosperous sector of the economy – the telecommunications and cable industries – from state and local taxation. Impacts of this exemption will result in a shift of the tax burden from these industries to other businesses and residents in our communities to recover the tax shortfall.

At the individual consumer level, poorer, largely rural consumers of plain old telephone services will have to pay higher taxes, while wealthy, largely urban and suburban, consumers escape taxes by moving entirely to broadband. This issue is also concerning because it would eliminate the tax parity that exists today between wireless and wireline telephone service. At the business level, other industries like retailers, manufacturers and other general businesses, as well as utilities like electric, water and gas services, will have to pay higher taxes, while the enormously profitable broadband telecommunications and cable industries would function tax-free.

As more telecommunications and video services shift to the Internet, *PITFA* will have a significant impact on state and local rights-of-way fees, cable franchise fees, and other fees in addition to prohibiting the inclusion of telecommunications/broadband services in local utility taxes. Local governments impose these taxes on telecommunications and cable service providers for a variety of reasons, not the least of which is compensation for use of public rights-of-way, administrative expenses and the impact of the installation and maintenance of the delivery systems for these services on local businesses and residents.

Local governments rely on taxes collected from these service providers to fund essential services in our communities, including well-trained firefighters and police officers; schools, parks, community centers and libraries to support youth; retirement security for dedicated career employees; and for investments

to fix our aging infrastructure. The loss of local revenue from *PITFA* will have very real impacts on communities across America, with estimated losses of \$390 million to jurisdictions in Illinois, \$237 million to localities in Tennessee, \$96 million to governments in Wyoming and more than a billion to California local governments. The estimated revenue lost for these governments and many others will undoubtedly grow as cable and telecommunications providers migrate more of our services to broadband platforms.

On behalf of local governments across the nation, we urge Senators to raise a point of order to strip the non-germane PITFA (Section 922) from the HR 644 conference report during tomorrow's floor proceedings. We are grateful to our Senate champions who have worked tirelessly to pursue the marketplace fairness initiative and protect issues important to local government finance, and we hope that we can find ways to work together to protect state and local sovereignty, our scarce revenue resources, as well as the ability of our governments to determine our own tax policies.

Sincerely,

National Association of Counties

National League of Cities

Government Finance Officers Association

International City/County Management Association