

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4494-04
Bill No.: SCS for HB 1768
Subject: Cities, Towns and Villages; Counties; County Officials; Department of Economic Development; Internet and E-mail; Political Subdivisions; Telecommunications
Type: Original
Date: April 28, 2020

Bill Summary: This proposal modifies several provisions relating to communications services.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2027)
General Revenue*	\$0	Could exceed (\$5,000,000)	Could exceed (\$5,000,000)	Could exceed (\$5,000,000)
Total Estimated Net Effect on General Revenue	\$0	Could exceed (\$5,000,000)	Could exceed (\$5,000,000)	Could exceed (\$5,000,000)

*Oversight notes this proposal extends the sunset date of an existing program (from August 28, 2021 to June 30, 2027). Accordingly, the fiscal note reflects the continuation of appropriations/ expenditures under the Broadband Internet Grant Program at the Fiscal Year 2020 level.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2027)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2027)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2027)
Total Estimated Net Effect on FTE	0	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2027)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 67.453 - Neighborhood Improvement Districts

Oversight notes this section of this proposed legislation expands the definition of “Improvement” to include a partnership with a telecommunications company in order to construct or improve telecommunications facilities which shall be wholly owned and operated by the telecommunications company. However, before any facilities are improved or constructed as a result of this section, the area shall be certified as unserved or under served by the Department of Economic Development.

Per Section(s) 620.2450 - 620.2459, the Missouri Department of Economic Development is to publish on its website the proposed unserved and under served areas. In addition, when the Missouri Department of Economic Development is prioritizing applications, they are to give first priority to grant applicants of unserved areas and third priority to grant applicants of under served areas.

Therefore, Oversight assumes the Missouri Department of Economic Development is aware of potential unserved and under served areas. Thus, Oversight assumes the Missouri Department of Economic Development can absorb the additional responsibility of certifying the areas for improved and constructed telecommunication facilities with existing resources.

Officials from the **Office of Administration - Budget & Planning Division (B&P)** state this section will have no direct impact on General Revenue (GR) and Total State Revenues (TSR) or the calculation pursuant to Article X, Section 18e.

Section 67.1461 - Community Improvement Districts

Oversight notes this section of this proposed legislation expands the powers of each Community Improvement District to allow Community Improvement Districts to partner with a telecommunications company in order to construct or improve telecommunications facilities which shall be wholly owned and operated by the telecommunications company. However, before any facilities are improved or constructed as a result of this section, the area shall be certified as unserved or under-served by the Department of Economic Development.

Per Section(s) 620.2450 - 620.2459, the Missouri Department of Economic Development is to publish on its website the proposed unserved and under served areas. In addition, when the Missouri Department of Economic Development is prioritizing applications, they are to give first priority to grant applicants of unserved areas and third priority to grant applicants of under served areas.

ASSUMPTION (continued)

Therefore, Oversight assumes the Missouri Department of Economic Development is aware of potential unserved and under served areas. Thus, Oversight assumes the Missouri Department of Economic Development can absorb the additional responsibility of certifying the areas for improved and constructed telecommunication facilities with existing resources.

Section 67.1842 and 67.1846 - Public Right of Way

Oversight notes this section of this proposed legislation prohibits political subdivisions from requiring a telecommunications company to obtain a written agreement (other than a permit) for use of the public right-of-way.

Furthermore, this proposed legislation provides that mutual agreement is required for a political subdivision or public utility right-of-way user to renew or enter into a new or existing franchise.

This proposed legislation removes the ability for grand fathered political subdivisions to enact new ordinances (including amendments of existing ordinances) or renewing existing linear foot ordinances.

Officials from **B&P** state section 67.1842.1 forbids political subdivisions from requiring a telecommunications company to obtain written agreement other than a permit when managing public right-of-way and imposing fees.

Section 67.1846.3 forbids political subdivisions, including grand fathered political subdivisions, from imposing a linear foot fee charge to entities that hold a franchise or video service authorization.

B&P states Section 67.1842 and 67.1846 will have no impact on state revenues. To the extent this impacts local revenues, this proposal could impact the calculation pursuant to Article X, Section 18(e). B&P does not have data to calculate the impact at the local level.

Section 392.020 - Articles of Association - Telephone and Telegraph Corporations, Street Railroad Corporations and Booming and Rafting Corporations

Oversight notes this section of this proposed legislation would allow the articles of association of a telephone or telegraph corporation, street railroad corporation or booming and rafting corporations to be amended to include a statement referencing the corporation's operating designation under 26 U.S.C. Section 501(c)(12) [exemption from tax on corporations].

ASSUMPTION (continued)

Officials from **B&P** state this section has no direct impact on B&P, has no direct impact on Total State Revenue or General Revenue and will not impact the calculation pursuant to Article X, Section 18(e).

Section 620.2451 - Department of Economic Development - Records

Oversight notes this section of this proposed legislation would require the Missouri Department of Economic Development (DED) to maintain a record of all federal grants awarded to entities for the purpose of providing, maintaining and expanding rural broadband in the State of Missouri. If funds are awarded to an entity and later retained, withheld or not distributed, DED shall seek to have the funds awarded to another qualified Missouri broadband provider.

Officials from **B&P** state this section has no direct impact on B&P, has no direct impact on Total State Revenue or General Revenue and will not impact the calculation pursuant to Article X, Section 18(e).

Oversight further notes, in response to similar legislation (HB 1768 - 2020), the **Missouri Department of Economic Development** stated their agency would not be impacted as a result of the language put forth in this section.

Section 620.2459 - Broadband Internet Grant Program, Unserved and Under-Served Areas

Officials from the **B&P** state this section will have no direct impact on General Revenue (GR) and Total State Revenues (TSR) or the calculation pursuant to Article X, Section 18e.

For Fiscal Year 2020, \$5 million is appropriated for the Broadband program. This proposal extends the program to June 30, 2027. To the extent new appropriations are made from GR, resources otherwise available for other budget priorities might be reduced.

This section may result in additional induced revenues, which B&P cannot estimate.

Oversight notes HB 7 of the 2019 Regular Session appropriated \$5 million for the Broadband Internet Grant Program. Oversight also notes the current (Perfected) version of HB 2007 (2020) **does not** appropriate revenue to the Broadband Internet Grant Program.

In response to similar legislation (SB 632 - 2020), officials from the **Missouri Department of Economic Development (DED)** stated, because the grant program is subject to appropriation, the impact to GR is not yet known. Based on the current appropriation, the cost could be equal to or exceed \$5 million. DED anticipated the need for an additional 0.5 FTE (Economic Development Specialist III - 26,163 annually) to assist with program administration, logistics, and compliance.

ASSUMPTION (continued)

Oversight notes DED has stated an additional .05 FTE is required to assist with program administration, logistics, and compliance. Oversight assumes, as this is an existing program under DED, that DED could absorb the costs associated with the extension of the sunset date. Oversight further assumes if the program is appropriated revenues that generate a significant increase in applicants who wish to receive a grant under this program, DED may seek additional FTE through the appropriation process.

Oversight notes this proposed legislation extends the sunset date of the Broadband Internet Grant Program from August 28, 2021 to June 30, 2027. Oversight notes \$5,000,000 was appropriated to the program for Fiscal Year 2020. Oversight notes this program is subject to appropriation each year and, therefore, the **fiscal impact cannot be quantified until future appropriations are made by the General Assembly.**

For purposes of this fiscal note, Oversight will report a negative fiscal impact that could exceed the amount equal to Fiscal Year 2020's appropriation for the program of \$5,000,000.

Oversight notes the **Missouri Department of Commerce and Insurance**, the **Missouri Department of Elementary and Secondary Education**, the **Missouri Department of Transportation**, the **Missouri State Tax Commission**, the **Missouri Department of Revenue**, the **City of O'Fallon**, the **Metropolitan St. Louis Sewer District**, and the **Mississippi County Recorder of Deeds** have each stated the proposed legislation would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

In response to similar legislation (HB 1859 - 2020), the **Missouri Department of Agriculture** and the **Missouri State Treasurer's Office** stated the proposed legislation would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero fiscal impact in the fiscal note for these organizations.

In response to similar legislation (SCS for SB 852 - 2020), the **Office of the Secretary of State** stated the proposed legislation would not have a direct fiscal impact on their respective organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero fiscal impact in the fiscal note for these organizations.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2027)
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**GENERAL
REVENUE FUND**

<u>Revenue Reduction -</u> Section 620.2459 - extended expiration date of the Broadband Internet Grant Program (subject to appropriation)	\$0	<u>Could exceed</u> <u>(\$5,000,000)</u>	<u>Could exceed</u> <u>(\$5,000,000)</u>	<u>Could exceed</u> <u>(\$5,000,000)</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>Could exceed</u> <u>(\$5,000,000)</u>	<u>Could exceed</u> <u>(\$5,000,000)</u>	<u>Could exceed</u> <u>(\$5,000,000)</u>
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*Oversight notes this proposal extends the sunset date of an existing program (from August 28, 2021 to June 30, 2027). Accordingly, the fiscal note reflects the continuation of appropriations/expenditures under the Broadband Internet Grant Program at the Fiscal Year 2020 level.

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2027)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposed legislation could impact any small business that would not have been awarded a grant had the sunset/expiration date of this program be extended. Furthermore, this proposed legislation could impact any telephone or telegraph corporation, street railroad corporation or booming and rafting corporations as these small businesses are permitted to amend their articles of associations.

FISCAL DESCRIPTION

Currently, the broadband internet grant program for unserved and under served areas of the state will expire on August 28, 2021. This act extends the program until June 30, 2027. (Section 620.2459)

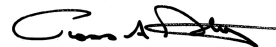
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Budget & Planning Division
Missouri Department of Commerce and Insurance
Missouri Department of Economic Development
Missouri Department of Revenue
Missouri Department of Elementary and Secondary Education
Missouri Department of Agriculture
Missouri Department of Transportation
Missouri Secretary of State's Office
Missouri State Treasurer's Office
Missouri State Tax Commission
City of O'Fallon
Metropolitan St. Louis Sewer District
Mississippi County Recorder of Deeds



Julie Morff
Director
April 28, 2020



Ross Strobe
Assistant Director
April 28, 2020