

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: S.B. 232

DATE: May 26, 1998

STATUS: As Introduced

SPONSOR: Sen. Nein

LOCAL IMPACT STATEMENT REQUIRED: No — However, potential local effects

CONTENTS: Deregulates commercial mobile telecommunications service providers

State Fiscal Highlights

| STATE FUND | FY 1998 | FY 1999 | FUTURE YEARS |
|---|----------------|----------------|---------------------|
| State Special Revenue Funds (Public Utilities Fund, Consumers' Counsel Operating Fund) | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | - 0 - | - 0 - | - 0 - |

- The bill would have no significant impact on the expenditures of the Public Utilities Commission or the Office of the Consumers' Counsel.
- The bill would have no impact on the total assessments paid to the Public Utilities Commission or the Office of the Consumers' Counsel. However, wireless telecommunications companies would no longer be assessed. Other public utilities would be assessed more to make up for the lost revenue.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.



Detailed Fiscal Analysis

The bill would discontinue regulation of commercial mobile radio service (CMRS) providers or wireless telecommunications companies by the Public Utilities Commission (PUCO). CMRS was a term defined by Congress to include “all mobile telecommunications services that are provided for profit and make interconnected service available to the public.” This category includes cellular services, paging services, personal communications services, and other “wireless” - as opposed to “wireline” services.

A 1993 amendment to the Federal Communications Act of 1934 preempts the states’ regulation of rates and entry of CMRS providers. States may, however, continue to regulate them regarding other terms and conditions. And states may petition the Federal Communications Commission (FCC) to regulate CMRS rates under certain circumstances.

In accordance with the 1993 law, the PUCO monitors CMRS service providers with respect to consumer issues. It also reviews contractual arrangements of CMRS providers - especially regarding transfers of ownership and control and interconnection and roaming agreements. This oversight requires that the CMRS providers licensed by the FCC identify themselves to the PUCO. It requires them to submit numerous filings and to pay assessments to the PUCO, as well as to the Consumers’ Counsel (OCC). According to the PUCO, total assessments paid by wireless companies amounted to roughly \$733,000 in fiscal year 1998 - approximately 3.4 percent of total assessments received. (This amount could be expected to grow as the wireless industry grows relative to other utilities in the state.)

The bill would end the obligation of wireless companies to 1) identify themselves to the PUCO; 2) submit filings to the PUCO; and 3) pay assessments to the PUCO or the OCC.

Total revenues received by the PUCO and the OCC would generally be unaffected by the provision that the wireless companies would no longer be required to pay assessments. Assessments to the PUCO are based on the Commission’s total appropriations for utility operating expenses. The total amount is divided among the public utilities in the state in accordance with their intrastate revenues. Although the PUCO would no longer regulate the CMRS providers *per se*, its duties with respect to regulating the state’s telecommunications network would not change. Therefore, it would have many of the same responsibilities with respect to the wireless providers as it currently has. For example, it needs to monitor telecommunications providers in order to help predict and resolve area code congestion issues. It would still be called upon to help resolve customer complaint issues. And, with the growth of the wireless industry in the state, these responsibilities with respect to wireless companies may actually increase. Therefore, the bill is unlikely to affect the future operating expenses of the PUCO. (While some expenses may decrease; others are likely to increase.) Consequently, future appropriations to the PUCO are unlikely to be affected by any changes the bill makes. Thus, assessments currently paid by CMRS providers to help fund the PUCO’s cost of monitoring the telecommunications system in the state would instead be paid by other utilities in the state.

The Office of the Consumers’ Counsel is funded in the same manner as the PUCO and is likely to be similarly affected by the bill.

Even though the wireless telecommunications providers would no longer be regulated by the PUCO; according to the bill, they would continue to be considered public utilities. Thus, they would continue to be exempt from the consumers sales practices act and from filing unclaimed funds reports. They would also continue to be exempt from numerous local zoning provisions. (According to the Revised Code, cellular towers are subject to certain zoning restrictions in residential areas. As public utilities, however, communities would continue to be unable to restrict the location of cellular towers in areas zoned for commercial or mixed-use development.) Since these provisions are essentially a continuation of current law with respect to CMRS service providers, they would not entail any additional cost on the state or local governments.

The bill would have no affect on the taxable status of wireless telecommunications providers. Like interexchange telecommunications companies, wireless companies are currently subject to the corporate franchise tax rather than the public utilities excise tax. Moreover, telecommunications service – including wireless service - “that originates or terminates in this state and is charged in the records of the telecommunications service vendor to the consumer's telephone number or account in this state, or that both originates and terminates in this state” is subject to the state sales tax. (The situsing of such calls is a significant headache, however.)

The property of wireless companies is assessed at 25 percent, like non-public utilities; although as a public utility, it is subject to somewhat different depreciation schedules. Presumably, this would be unaffected by the bill. One problem that might arise, however, is that without the requirement that wireless companies register with the PUCO, the Tax Department may have some difficulty identifying taxpayers and collecting taxes from them.

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