Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 162 of the 128th G.A. **Date**: June 3, 2010

Status: As Passed by the House **Sponsor**: Sen. Buehrer

Local Impact Statement Procedure Required: No – corrected after initial review

Contents: To revise state regulation of telephone companies and to remove telegraph companies from utility regulation

State Fiscal Highlights

STATE FUND	FY 2011	FY 2012	FUTURE YEARS
General Revenue Fund			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	- 0 -	- 0 -	- 0 -
Community-Voicemail Service Pilot Program Fund			
Revenues	An amount equal to all expenditures incurred by the fund	An amount equal to all expenditures incurred by the fund	- 0 -
Expenditures	Unspecified increase not more than $500,000 over two years	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The General Revenue Fund (GRF) may collect forfeitures if the Public Utilities Commission (PUCO) makes a finding against a telephone company other than a wireless service provider after a complaint is filed. However, the bill does not mandate a forfeiture for every finding of a violation or failure to adhere to new provisions within the Revised Code that govern telephone companies.
- If a forfeiture is assessed by PUCO, the amount may not exceed $10,000 and each day's continuance of the violation is a separate offense. The amount of revenue gained by the GRF is dependent on the number of violations and both the magnitude and frequency of forfeitures assessed by PUCO.
- According to PUCO, the forfeiture regulation proposed in the bill is similar to the existing regulatory climate of telephone companies. The amount of forfeitures collected in a given year fluctuates a great deal, and in no year has the aggregate total exceeded $1 million. In some years, no forfeitures were assessed by PUCO.

- The bill newly establishes a Community-Voicemail Service Pilot Program Fund which will be funded by an assessment on each local exchange carrier payable to PUCO. The pilot program is scheduled to last for two years and the total cost cannot exceed $500,000.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

S.B. 162 revises state-policy objectives for the provision of telecommunications service by repealing current law governing alternative regulation of telephone companies and redefining the Public Utilities Commission's (PUCO) authority and jurisdiction. The bill specifies requirements and mandatory standard practices to be implemented by telephone companies.

With respect to rates, the bill requires telephone companies to file rate schedules only for the following: charges for use of attachment of any wire, cable, facility, or apparatus to its poles, pedestals, or placement of attachments in conduit duct space, $1.25 rate increases authorized under the bill, lifeline service, discounts for operator-assisted and direct-dial services for persons with communication disabilities, carrier access and N-1-1 services, inmate telephone instruments, and 9-1-1 service.

Furthermore, the bill redefines "public utility" to specifically exclude providers of Internet protocol-enabled services, providers of specified advanced services, broadband service, information services, and any telecommunications service that is not yet commercially available on the bill's effective date.[1]

S.B. 162 requires specified incumbent local exchange carriers to implement lifeline service, defined in the bill, throughout the carrier's traditional service area. The bill establishes the Lifeline Advisory Board in order to coordinate all activities related to the promotion and marketing of, and the outreach regarding, lifeline services. Under the bill, PUCO may review and approve the decisions of the Advisory Board in accordance with PUCO rules.

The bill also specifies that wireless service providers are subject to the assessments on public utilities to fund PUCO and Office of Consumers' Counsel (OCC) operations and must file annual reports with PUCO that aid PUCO in calculating wireless service provider assessments.

[1] For further detail on this provision, refer to the bill's proposed language in section 4905.02.

S.B. 162 creates the eight-member Select Committee on Telecommunications Regulatory Reform to review the economic benefits of the bill and its impact on jobs, telephone company rates, telephone company quality of service, lifeline program customers, rural markets, rural broadband deployment, and carrier access to private property, and requires the Committee to submit a written report of its findings and recommendations to the General Assembly and the Governor no later than four years after the effective date of the bill, at which time the Committee will cease to exist. The bill requires PUCO to cooperate with the Committee and provide reports and any other information that the Committee requests and permits the Committee to request assistance from the Legislative Service Commission.

Many other regulatory changes are included in the bill; however, they do not have a fiscal impact.

Fiscal effect

S.B. 162 establishes a new fund in the state treasury, the Community-Voicemail Service Pilot Program Fund, in order to provide community-voicemail service "for individuals who are in a state of transition and have no access to traditional telephone exchange service or readily available alternatives, including the homeless, clients of battered-spouse programs, and displaced veterans." PUCO must select one or more vendors through a competitive bidding process and the expenditures of the community-voicemail service may not be more than $500,000 for the two-year pilot program. PUCO is required to use the money in the fund solely to compensate the selected vendors. PUCO is required to impose assessments on each local exchange carrier (LEC) in a proportional manner, based on the number of retail, intrastate, customer access lines, or the equivalent of each carrier. Local exchange carriers that pay the assessment cannot recover the cost of the assessment directly from customers through a billing surcharge. Finally, PUCO is required to evaluate the effectiveness of the program two years after the service begins, and it must report its findings and any potential recommendations to the Select Committee on Telecommunications Regulatory Reform.

The bill allows PUCO to initiate or any person to file a complaint against a telephone company, wireless service provider, telecommunications carrier, or provider of Internet protocol-enabled services (e.g., VOIP) that alleges a "rate, practice, or service of the company is unjust, unreasonable, unjustly discriminatory, or in violation of or noncompliance with any provision" in the bill that replaces the alternative regulation structure that presently applies to telephone service. If PUCO decides to hold a hearing for the complaint, and if the PUCO makes a finding against the party complained of, the commission may assess a forfeiture of not more than $10,000 for each violation. Each day's continuance of the violation is a separate offense, and all occurrences of a violation on any one day shall be deemed one violation. The bill requires that all revenues from these forfeitures be deposited into the GRF.

According to PUCO, the forfeiture process proposed in the bill is similar to the existing regulatory climate of telephone companies. The amount of forfeitures collected in past years has fluctuated a great deal, and in no year has the aggregate total exceeded $1 million; in some years, no forfeitures were assessed by PUCO. The amount of revenue raised by this provision of the bill in the future will depend on compliance with the new law, and is therefore uncertain at this time.

S.B. 162 requires telephone companies to provide basic local exchange service in order to ensure available, adequate, and reliable service. The bill permits an incumbent local exchange carrier to increase rates for basic local exchange service by $1.25 once during the first 12 months after the bill's effective date (and yearly thereafter) upon 30 days' notice to PUCO and customers. The increase would be contingent upon PUCO approval, which may be withheld if PUCO finds, after holding hearings, that the carrier does not operate in a sufficiently competitive environment. The bill also prohibits the banking of these rate increases.[2] Although some smaller local governments may potentially be basic local exchange customers, the maximum annual increase of $1.25 in monthly telephone bills would represent a minimal increase in expenditures. According to PUCO, the telephone companies may currently seek this $1.25 increase every year under alternative regulation. Furthermore, local governments and businesses generally negotiate telephone rates that differ from those paid by residential users.

The eight members of the Select Committee on Telecommunications Regulatory Reform are to include four members of the General Assembly, two each from the House of Representatives and the Senate, one member designated by the chairperson of PUCO, one designated by the Consumers' Counsel, and two appointed by the Governor. The bill does not specify whether members are to receive compensation or mileage reimbursement. The Legislative Service Commission is unlikely to require additional resources to assist the Committee. Also, PUCO does not believe the Select Committee will have an impact on its budget; it expects to handle its duties with existing resources.

The bill does not specify the number of members of the newly established Lifeline Advisory Board, but it does specify that it should include members of the staff of PUCO and OCC, as well as certain private sector and consumer representatives chosen according to specified criteria. The bill does not specify whether members of the Board are to be compensated. The Board appears to have no fiscal effect on the state, beyond using existing PUCO and OCC resources.

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[2] For further detail on this provision, refer to the bill's proposed language in section 4927.12.