



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. [Sub. S.B. 162 of the 128th G.A.](#) **Date:** February 1, 2010
Status: As Passed by the Senate **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 2010	FY 2011	FUTURE YEARS
General Revenue Fund			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	- 0 -	- 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 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.

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, S.B. 162 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, S.B. 162 redefines "public utility" to specifically exclude providers of Internet protocol-enabled services, including voice over Internet protocol (VOIP) services and providers of 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 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 three 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

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 S.B. 162 that replaces the alternative regulation structure that presently applies to telephone service. If PUCO decides to hold a hearing

¹ For further detail on this provision, refer to the bill's proposed language in section 4905.03 of the Revised Code.

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.

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² For further detail on this provision, refer to the bill's proposed language in section 4927.10 of the Revised Code.