

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4494-10
Bill No.: Truly Agreed To and Finally Passed CCS No. 2 for SS for SCS for HB 1768
Subject: Utilities
Type: Original
Date: June 1, 2020

Bill Summary: This proposal modifies 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 2024)
General Revenue	\$0	\$0 or could exceed (\$5,000,000)	\$0 or could exceed (\$5,000,000)	\$0 or could exceed (\$5,000,000)
Total Estimated Net Effect on General Revenue	\$0	\$0 or could exceed (\$5,000,000)	\$0 or could exceed (\$5,000,000)	\$0 or could exceed (\$5,000,000)

*Oversight notes this proposal extends the sunset date of an existing program (§620.2459 - 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 FY 2020 level (\$5,000,000) or the FY 2021 appropriated level (\$0) to DED for Broadband Grants.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
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 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
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 2024)
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 2024)
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Section 67.453 - Neighborhood Improvement Districts

Oversight notes this section of this legislation expands the definition of “Improvement” to include a partnership with a telecommunications company or broadband service provider in order to construct or improve telecommunications facilities which shall be wholly owned and operated by the telecommunications company or broadband service provider. 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 18(e).

Section 67.1461 - Community Improvement Districts

Oversight notes this section of this legislation expands the powers of each Community Improvement District to allow Community Improvement Districts to partner with a telecommunications company or broadband service provider in order to construct or improve telecommunications facilities which shall be wholly owned and operated by the telecommunications company or broadband service provider. 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.

Officials from **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 18(e).

Section 67.1846 - Public Right-of-Way

Oversight notes this section of this legislation prohibits grand-fathered political subdivisions from charging a linear foot fee for use of its right-of-way to a small local exchange telecommunications company, as of December 31, 2019, so long as the small local exchange telecommunications company is providing internet access to customers within the rural areas of the state.

Officials from **B&P** state Section 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.

Officials from the **City of Kansas City (KC)** state this proposed section will have a negative fiscal impact on KC in an indeterminate amount. Additionally, KC is under the impression that this section could hinder the ability for KC to impose linear foot fees on companies that provide internet access to customers within rural areas of the state, even if those customers are not located within KC.

Oversight is unable to determine whether there are currently linear foot fee(s) imposed on small local exchange telecommunications companies. For purposes of this fiscal note, Oversight will report a negative fiscal impact to local political subdivisions ranging from \$0 or (Unknown).

Section 67.5122 - Uniform Small Wireless Facility Deployment Act - Expiration Date

Oversight notes this section of this legislation extends the expiration date of the Uniform Small Wireless Facility Deployment Act from January 1, 2021 to January 1, 2025.

Oversight notes, in response to similar legislation (HB 2182 - 2020), which eliminated the expiration date of the Uniform Small Wireless Facility Deployment Act, officials from the **Missouri Department of Commerce and Insurance**, the **Missouri Department of Transportation**, the **Missouri Department of Economic Development**, the **Missouri Department of Natural Resources**, the **Office of State Court Administrator**, the **Office of Administration**, the **City of Springfield**, and the **City of Kansas City** stated this proposed section would not have a direct fiscal impact on their respective organizations.

ASSUMPTION (continued)

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero fiscal impact in the fiscal note as it relates to this section.

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

Oversight notes this section of this legislation would allow the articles of association of a telephone or telegraph corporation, street railroad corporation or booming and rafting corporation 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].

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 legislation would require the Missouri Department of Economic Development 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 a previous version of this legislation, the **Missouri Department of Economic Development (DED)** stated their agency would not be impacted as a result of the language put forth in this section. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero fiscal impact in the fiscal note for this organization as it relates to this section

Section 620.2456 - Broadband Internet Grant Program, Unserved and Underserved Areas

Oversight notes this section of this legislation states if a grant recipient fails to establish the speed requirements set forth in Section 620.2451 (at least twenty-five megabits per-second download and three megabits per-second upload), the grant recipient shall return all grant moneys to the Missouri Department of Economic Development.

ASSUMPTION (continued)

In response to similar legislation (SB 865 - 2020) **DED** stated no fiscal impact was anticipated as a result of this language. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero fiscal impact in the fiscal note for this organization as it relates to this section.

Officials from **B&P** state this section provides if a broadband grant recipient fails to establish the speed requirements set forth in Section 620.2451, the recipient will have to return all grant moneys to the Missouri Department of Economic Development. Since no specific fund is mentioned, B&P assumes this will be deposited into the General Revenue Fund (GR).

Oversight assumes any grant moneys returned to the Missouri Department of Economic Development would serve as future grant(s) to other qualified broadband internet providers. For purposes of this fiscal note, Oversight will report a positive fiscal impact to GR ranging from \$0 (no money is returned to DED) to an Unknown amount (transfer in) and a negative fiscal impact to GR ranging from \$0 (no money is returned to DED) to an Unknown amount (transfer out).

Oversight assumes this section would net a zero fiscal impact.

Section 620.2459 - Broadband Internet Grant Program, Unserved and Underserved Areas

Oversight notes this section of this legislation extends the sunset date of the Broadband Internet Grant Program from August 28, 2021 to June 30, 2027.

Oversight notes HB 7 of the 2019 Regular Session appropriated \$5 million for the Broadband Internet Grant Program. Oversight also notes the **current** (CCS for SCS for HS for HCS for HB 2007) version of **HB 2007 (2020)**, as delivered to the Governor, appropriates **\$0** to DED for Broadband Grants (Section 7.105).

Officials from **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.

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.

ASSUMPTION (continued)

Officials from **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.

Oversight notes DED has stated an additional .5 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 \$5,000,000 was appropriated to the program for Fiscal Year 2020. 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 to GR that could exceed the amount equal to Fiscal Year 2020's appropriation for the program of \$5,000,000.

Legislation - As a Whole

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

ASSUMPTION (continued)

Officials from the **Metropolitan St. Louis Sewer District**, the **Missouri Department of Revenue**, the **Missouri State Tax Commission**, the **Missouri Department of Agriculture**, the **Missouri Department of Commerce and Insurance**, the **Missouri State Treasurer’s Office** and the **Missouri Department of Transportation** state the 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.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
GENERAL REVENUE FUND				
<u>Transfer In - Section 620.2456 - Grant Moneys Returned to DED</u>	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Transfer Out - Section 620.2456 - Grant Moneys Returned to DED</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Revenue Reduction - Section 620.2459 - extended expiration date of the Broadband Internet Grant Program (subject to appropriation)</u>	<u>\$0</u>	<u>(\$5,000,000)</u>	<u>(\$5,000,000)</u>	<u>(\$5,000,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>(\$5,000,000)</u>	<u>(\$5,000,000)</u>	<u>(\$5,000,000)</u>

*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 FY 2020 level (\$5,000,000) or the FY 2021 appropriated level (\$0).

<u>FISCAL IMPACT -</u>				Fully
<u>Local Government</u>	FY 2021	FY 2022	FY 2023	Implemented
	(10 Mo.)			(FY 2024)

**LOCAL
 POLITICAL
 SUBDIVISIONS**

<u>Revenue Reduction -</u>				
Section 67.1846 -				
Prohibits Linear				
Foot Fees	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

**ESTIMATED NET
 EFFECT ON
 LOCAL
 POLITICAL
 SUBDIVISIONS**

	<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>
	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</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 boating and rafting corporations as these small businesses are permitted to amend their articles of associations. This proposed legislation could also impact any small local exchange telecommunications companies that are imposed a linear foot fee provided the small local exchange telecommunications company provides internet access to customers within the rural areas of the State of Missouri. This proposed legislation could impact any small business who receives a grant under the Broadband Internet Grant Program, who fails to establish the speed requirements as they would be required to return all grant moneys to the Missouri Department of Economic Development.

FISCAL DESCRIPTION

This legislation prohibits grand-fathered political subdivisions from charging a linear foot fee for use of its right-of-way to a small local exchange telecommunications company as of December 31, 2019 so long as the small local exchange telecommunications company is providing internet access to customers within the rural areas of the state.

FISCAL DESCRIPTION (continued)

This legislation modifies provisions relating to Neighborhood Improvement Districts in such that the definition of “Improvement” to include a partnership with a telecommunications company or broadband service provider in order to construct or improve telecommunications facilities which shall be wholly owned and operated by the telecommunications company or broadband service provider. 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.

This legislation modifies provisions relating to Community Improvement Districts in such that the powers of Community Improvement Districts are expanded to allow Community Improvement Districts to partner with a telecommunications company or broadband service provider in order to construct or improve telecommunications facilities which shall be wholly owned and operated by the telecommunications company or broadband service provider. 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.

This legislation would allow the articles of association of a telephone or telegraph corporation, street railroad corporation or boating 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].

This legislation would require the Missouri Department of Economic Development 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.

This legislation would require a grant recipient who fails to establish the speed requirements set forth in Section 620.2451 (at least twenty-five megabits per-second download and three megabits per-second upload), to return the grant moneys to the Missouri Department of Economic Development.

This legislation extends the sunset date of the Broadband Internet Grant Program from August 28, 2021 to June 30, 2027.

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 Revenue
Missouri Department of Economic Development
Missouri Department of Commerce and Insurance
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 Kansas City
Metropolitan St. Louis Sewer District



Julie Morff
Director
June 1, 2020



Ross Strope
Assistant Director
June 1, 2020