Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 276 of the 128th G.A.

Date: April 19, 2010

Status: As Passed by the House

Sponsor: Rep. Sayre

Local Impact Statement Procedure Required: No — Minimal cost

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 -
Community-Voicemail Service Fund			
Revenues	- 0 -	An amount equal to all expenditures incurred by the fund	An amount equal to all annual expenditures incurred by the fund
Expenditures	- 0 -	Unspecified increase not more than $1 million	Unspecified increase of not more than $1 million annually

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 previous 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 Fund which will be funded by an assessment on each local exchange carrier to be determined by a formula established by PUCO. Annual revenues and expenditures cannot exceed one million dollars.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

H.B. 276 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.

H.B. 276 explicitly excludes the following from the definition of a public utility: advanced services, broadband service, Internet protocol-enabled services, and any telecommunications service or technology that becomes commercially available after the bill's effective date.

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, community voicemail assessments, 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.

H.B. 276 requires the promotion and marketing of, and the outreach regarding, lifeline services to be coordinated through a single advisory board. To perform this function, the bill creates the Lifeline Advisory Board. 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.

Many other regulatory changes are included in the bill; however, they do not have a fiscal impact. All regulatory changes are described in LSC's bill analysis.

Fiscal effect

H.B. 276 establishes a new fund in the state treasury, the Community-Voicemail Service 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 annual expenditures of the community-voicemail service may not be more than $1 million. 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 to be established by PUCO. The assessment is to be based on the number of retail, intrastate, or customer access lines, or the equivalent of each carrier. Finally, PUCO is obligated to annually reconcile the assessments it imposed with the actual costs of the community-voicemail service for the previous year and then credit or debit amounts from local exchange carriers accordingly.

The bill allows PUCO to initiate or any person to file a complaint against a telephone company other than a wireless service provider 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 H.B. 276 that replaces the alternative regulation structure that presently applies to telephone service. If PUCO decides to hold a hearing for the complaint, and if 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 will 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.

H.B. 276 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, and prohibits the banking of these rate increases. 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, but no telephone company has sought this increase on an annual basis except for Cincinnati Bell. Furthermore, local governments and businesses generally negotiate telephone rates that differ from those paid by residential users.

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 existing PUCO and OCC resources.

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