

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 961
Economic Matters

(Delegate Mautz, *et al.*)

Finance

Rural Broadband Communication Services

This bill requires the Department of Housing and Community Development (DHCD) to complete an inventory and map of all State and local government assets that can be used to assist with the expansion of broadband service to unserved and underserved areas of the State by June 1, 2020. The bill also (1) specifies that nonprofit telecommunications services providers in rural and underserved areas of the State must be allowed to use the right-of-way or easement of specified State agencies for the installation of broadband communication infrastructure without being charged to do so and (2) repeals the termination date of Chapter 269 of 2006 (which, among other things, established the Rural Broadband Assistance Fund (RBAF) and Rural Broadband Coordination Board (RBCB)).

Fiscal Summary

State Effect: State revenues (all funds) decrease to the extent that affected State agencies must allow the use of rights-of-way and easements by nonprofit telecommunications service providers without charge; however, any such impact cannot be reliably predicted. Likewise, State expenditures (all funds) for affected agencies may increase, as discussed below. DHCD advises that the bill's inventory and mapping requirements can be handled using existing resources. Repeal of the termination date of RBAF and RBCB does not affect State finances or operations because the fund has not received State or federal funding since 2009.

Local Effect: Local governments can likely assist DHCD, as appropriate, using existing resources. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: To complete the inventory, DHCD may solicit input from local governments and Internet service providers (ISPs) to identify unserved and underserved rural areas in the State. DHCD must use the inventory to create a map with specified information and make both the inventory and map available on request. The assets inventoried by DHCD must include the location and number of cellular towers, water towers, fiber optic cable routes, and any other structures DHCD determines are necessary to complete the inventory. The map created using the inventory must include (1) all deployable assets and resources owned by or managed by State and local governments and (2) population density and business density for unserved and underserved rural areas of the State.

The Maryland Department of Transportation (MDOT), including the Maryland Transportation Authority (MDTA), Board of Public Works (BPW), Department of Information Technology (DoIT), Department of Natural Resources (DNR), and Maryland Department of the Environment (MDE) must each allow the use of any right-of-way or easement (at no charge) for the installation of broadband communication infrastructure provided by nonprofit telecommunications services providers in rural and underserved areas of the State.

Current Law/Background:

Chapter 269 of 2006

Chapter 269 of 2006 established RBAF in the Department of Commerce (Commerce, then the Department of Business and Economic Development) and requires RBCB to administer the fund. The purpose of the fund is to assist in the establishment of broadband communication services in rural and underserved areas of the State. Commerce must administer the fund, which consists of (1) money appropriated in the State budget to the fund; (2) money appropriated in the State budget to the Maryland Economic Development Assistance Fund for the purpose of assisting in the establishment of broadband communication services in rural and underserved areas of the State; (3) federal money allocated or granted to the fund; and (4) any other money from any source accepted for the benefit of the fund. The fund may be used only for planning, construction, and maintenance of broadband communication services and equipment in rural and underserved areas and related activities. The fund has not received State or federal funding since 2009.

Chapter 269 of 2006 also requires the State Highway Administration (SHA) to allow the use of any right-of-way (at no charge) for the installation of broadband communication infrastructure provided by nonprofit telecommunications services providers in rural and underserved areas of the State. SHA advises that, under Chapter 269, it issues permits to

the Maryland Broadband Cooperative for use of its right-of-way on secondary roads. SHA advises that there are federal requirements that states enter into resource sharing agreements for information technology utility-product placed within their controlled access right-of-way. The agreement allows the cooperative to provide SHA with fiber Internet access as an in-kind payment for use of the right-of-way, which satisfies both the State and federal requirements.

Chapter 269 terminates June 30, 2020.

Task Force on Rural Broadband Findings and Recommendations

Chapters 620 and 621 of 2017 established the Task Force on Rural Internet, Broadband, Wireless, and Cellular Service. Staffed by DoIT, the task force was required to study and make recommendations regarding how Western Maryland counties; Southern Maryland counties; Eastern Shore counties; and Frederick, Carroll, and Harford counties can work together to obtain federal assistance to improve Internet, broadband, wireless, and cellular services and accessibility in the affected counties. The task force's findings and recommendations were due by November 30, 2017.

Chapters 620 and 621 required the study to (1) assess current Internet, broadband, wireless, cellular, and landline service connectivity; (2) assess coverage for the users located at the end of each type of service connectivity; (3) evaluate redundancies and gaps in the current services; and (4) evaluate any federal funds applied for in response to any previous broadband task force in the State.

In the [Task Force on Rural Internet, Broadband, Wireless, and Cellular Service Task Force Report](#), published in January 2018, three key obstacles to ensuring adequate Internet service in underserved rural areas in the State were identified. First, there are no current databases or maps containing the State assets and resources that could be used for the expansion of broadband. Second, there are no current estimates on what the total cost of such an expansion would be. Third, ISPs want to ensure a "return on investment" for the service provided in low-population density rural areas.

As a result of these and other findings, the task force made six official recommendations, which include (1) compiling a complete inventory of State and locally owned assets that could be used to implement a broadband system (such as cell towers and water towers); (2) updating State mapping capabilities, which would be useful for calculating the overall cost of universal service last-mile broadband; and (3) extending the task force for one year to develop financing models and identify other funding sources that may be available.

Federal Communications Commission

The Federal Communications Commission (FCC) regulates interstate and international communications by radio, television, wire, satellite, and cable in all 50 states, the District of Columbia, and U.S. territories. FCC is an independent agency overseen by the U.S. Congress, and it is the primary authority for communications law and regulation. FCC defines an “adequate” level of Internet service as a connection speed of 25 megabits per second.

State Fiscal Effect: State revenues for MDOT, MDTA, BPW, DoIT, DNR, and MDE decrease to the extent that easements and/or rights-of-way are used by eligible nonprofits under the bill at no cost when (1) they otherwise would have been used and (2) the State agency would have charged the nonprofit. However, it is unclear which (if any) of the affected agencies would have allowed the use of an easement or right-of-way absent the bill. Similarly, it is unclear whether MDOT or another State agency would receive an in-kind payment under a resource sharing agreement similar to what has been agreed to by SHA and the Maryland Broadband Cooperative (either absent or under the bill). Therefore, the magnitude of the revenue loss cannot be reliably estimated.

Additionally, State expenditures for MDOT, MDTA, BPW, DoIT, DNR, and MDE may increase as the affected agencies experience additional costs for maintenance and upkeep when nonprofit entities use the agencies’ rights-of-way and easements. However, any such impact depends on how a nonprofit uses an easement or right-of-way under the bill and cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation; Department of Housing and Community Development; Department of Information Technology; Garrett, Kent, and Worcester counties; Maryland Association of Counties; Federal Communications Commission; Department of Legislative Services

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