Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 790 (Senator Eckardt)
Finance

Information Technology - Communications Lines - Installation

This bill requires the Department of Information Technology (DoIT) to waive all fees applicable under its resource sharing agreement (RSA) standard pricing for all "last mile" broadband telecommunications projects in "unserved areas." The bill also exempts a private industry *entity* from having to have a project, including RSAs, reviewed and approved by DoIT if that entity has a separate legal right of access under State or local law to install communications lines and associated facilities in the State rights-of-way, including telephone and cable companies.

Fiscal Summary

State Effect: State operations and finances are significantly affected, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "Last mile" means the local Internet connection that physically reaches into the end user's home, business, or premises. "Unserved area" means an area in which no facilities-based broadband service providers offer minimum connectivity speeds of 25 megabits per second to download and 3 megabits per second to upload.

Current Law/Background:

DoIT and the Statewide Information Technology Master Plan

DoIT and the Secretary of Information Technology are, among other things, responsible for (1) developing and enforcing information technology (IT) policies, procedures, and standards; (2) providing IT-related technical assistance, advice, and recommendations to any unit of State government; and (3) developing and maintaining a statewide IT master plan. Certain agencies, such as the Maryland Stadium Authority and the University System of Maryland, are exempt from DoIT's direct oversight.

State agencies may not purchase, lease, or rent IT unless it is consistent with the master plan. The master plan must:

- serve as the basis for the management and direction of IT within the Executive Branch;
- include all aspects of State IT, including telecommunications, data processing, and information management;
- consider interstate transfers as a result of federal legislation and regulation;
- work jointly with the Secretary of Budget and Management to ensure that IT plans and budgets are consistent;
- ensure that State IT plans, policies, and standards are consistent with State goals, objectives, and resources, and represent a long-range vision for using IT to improve the overall effectiveness of State government; and
- include standards to assure nonvisual access to the information and services made available to the public over the Internet.

RSAs

The State's telecommunications RSA process was established by Chapter 87 of 1996 to allow State agencies to enter into contractual agreements with private companies for the nonexclusive, long-term use of State rights-of-way (land), communications infrastructure (telecommunications towers), and real estate (buildings). Generally, RSAs permit private companies to install, operate, and maintain communications systems on State resources; in exchange, the private companies provide the State with monetary compensation, equipment, or services.

Funds collected from telecommunications RSAs and from the sale, lease, and exchange of communication sites, communication facilities, or communication frequencies must generally be deposited into the Major Information Technology Development Project Fund (MITDPF). However, funds collected from RSAs with specified Executive Branch agencies and agencies within the Judicial and Legislative branches of State government are retained by those agencies and not deposited into MITDPF. MITDPF is used to pay for major IT development projects in general funded agencies.

RSAs – Waivers

In October 2019, DoIT updated its RSA Program Policy. The purpose of the policy is to establish a comprehensive programmatic framework for State agencies to follow when they establish, maintain, and manage RSAs. The policy includes, among other things, various exemptions that allow an agency or private-sector entity to operate outside the policy under certain circumstances. The policy contains a policy and fee waiver directly related to the bill.

Appendix 12 of DoIT's policy, Private Industry Installation and Use of Fiber Optic Cable in State Rights-of-Way, affects certain private entities that have a right to access and use State rights-of-way to provide one or more type of telecommunication service (*i.e.*, telephone, cable television, and broadband Internet) but not all types of service. Since fiber optic technology allows multiple telecommunication services to be provided through the same line, DoIT does not require additional review and oversight *for specific proposals from private entities to expand services available over existing fiber optic lines* if the private entity already has the rights to install lines related to one type of service and seeks rights to provide expanded services through the same line.

Appendix 14 of DoIT's policy, the rural and unserved broadband fee waiver, allows DoIT to offer a monetary fee waiver option to RSAs with for-profit companies that provide last mile broadband service to areas that are both rural and unserved.

State Fiscal Effect: The bill codifies DoIT's rural and unserved broadband fee waiver (Appendix 14, discussed above), but *does not* codify DoIT's Private Industry Installation and Use of Fiber Optic Cable in State Rights-of-Way policy (Appendix 12, discussed above). Specifically, DoIT's existing policy exempts *an installation* from additional review and oversight if the entity already has the right to install lines and the additional proposed service will be provided along the same line, but the bill exempts *an entity* from additional oversight when it has a legal right of access to install any lines.

For example, a phone company that also wishes to provide cable Internet service under DoIT's policy could do so without additional review and oversight only if that service were provided through an existing line the phone company has rights for. However, under the bill, that phone company could install additional physical lines for services that it does not have authority to provide.

Additionally, DoIT advises that the bill could be construed to nullify existing RSAs, as entities currently bound to the RSA law are exempt from DoIT oversight of their RSAs under the bill. In such a case, revenues from existing and future RSAs could be eliminated, and the State could be prohibited from using previously shared fiber optic lines. DoIT advises that the loss of RSA revenue could total as much as $4.9 million annually and that it would cost $26.0 million to purchase and install its own fiber optic cable lines to replace those currently shared under RSAs.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1508 (Delegate Mautz, *et al.*) - Economic Matters.

Information Source(s): Department of Information Technology; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2020
mm/mcr

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510