Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: http://legis.wisconsin.gov/lfb

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TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 344 and Senate Bill 321: Exemption for Certain Broadband Service Equipment from the State Ad Valorem Tax on Telephone Companies

Assembly Bill 344 (AB 344) and Senate Bill 321 (SB 321) are identical bills that would provide an exemption from the state ad valorem (property) tax on telephone companies for certain equipment used to provide broadband service to rural areas.

AB 344 was introduced on July 24, 2019, and was referred to the Assembly Committee on Rural Development. Assembly Substitute Amendment 1 (ASA 1) to AB 344 was offered in that Committee on September 3, 2019, and that Committee held a public hearing on September 5, 2019. On September 19, 2019, ASA 1 to AB 344 was adopted and recommended for passage on a vote of 11-0.

SB 321 was introduced on July 10, 2019, and was referred to the Senate Committee on Utilities and Housing. Senate Substitute Amendment 1 (SSA 1) to SB 321 was offered in that Committee on August 28, 2019.

ASA 1 and SSA 1 are identical substitute amendments.

BACKGROUND

Due to their unique nature, most public utility property in Wisconsin is exempt from local property taxation, and instead, public utilities are subject to state taxation. The Department of Revenue (DOR) administers the state public utility taxes. The tax on telephone companies is a state property tax, where the value of telephone company property is determined based on the municipality where it is located and multiplied by the net property tax rate of the corresponding municipality. For tax year 2018, state taxes on telephone companies totaled $67.2 million, based on an assessed value of $3,321.4 million, which included $2,993.1 million in personal property.

SUMMARY OF BILLS

The bills would provide an exemption from the state public utility tax for two types of property used to provide internet access service to certain areas of the state. For property installed before January 1, 2020, the property must provide access service to rural areas at a download speed of at least 25 megabits per second (mbps) and an upload speed of at least 3 mbps. For property installed after December 31, 2019, the property must provide access service to rural or underserved areas at 25/3 mbps or at faster speeds if the Federal Communications Commission (FCC) has designated higher benchmarks for advanced telecommunications capability. The bill defines "rural area" as an area outside a federal metropolitan statistical area or as an area located in a municipality with a population of not more than 14,000, as of the 2010 federal decennial census, and "underserved area" as an area with internet access service at 25/3 mbps, or at faster speeds if the FCC has designated higher benchmarks for advanced telecommunications capability, not available from at least two wired providers. The exemption would take effect and first apply to property tax assessments in tax year 2020.

SUMMARY OF SUBSTITUTE AMENDMENTS

The substitute amendments would provide the same exemptions that would be provided under the bill. However, the exemption for property installed after December 31, 2019, would be delayed by one year and first apply in tax year 2021. The exemption for property installed before January 1, 2020, would be delayed by five years and first apply in tax year 2025.

FISCAL EFFECT OF BILLS AND SUBSTITUTE AMENDMENTS

Fiscal Effect of Bills. In its fiscal estimate for the both AB 344 and SB 321, DOR described the effect as "indeterminate" due to lack of data to make an estimate. However, DOR's "Fiscal Estimate Narratives" notes that telephone companies paid $54.8 million in taxes on personal property in 2018, including $27.6 million (50.37%) on equipment located in rural areas. DOR also estimated that its administrative costs for computer programming would be $59,900 on a one-time basis.

Using the DOR determination as an initial data point, the following analysis relies on information from the FCC on internet access speeds by geographic area and from Wisconsin telephone companies on equipment categories. As noted above, the taxable value of telephone company personal property equaled $2,993.1 million in 2018, and just over half of that value is estimated to be in rural areas. Further, of that property, 67.25% is estimated to be broadband service property, and 33.50% is estimated to be qualifying broadband. Therefore, 11.35% of all telephone company personal property is estimated to qualify for the exemption (50.37% x 67.25% x 33.50% = 11.35%). Between 2018 and 2020, the value of telephone company personal property is estimated to increase by 4.61%, as investments in new equipment exceed depreciation and retirements. Based on these assumptions, the value of property exempted by the proposal is estimated at $416.8 million in 2020 and $454.8 million in 2021, and the corresponding tax reductions are estimated at $8.0 million and $8.7 million. On a state fiscal year basis, general fund tax collections are estimated to decrease by $11.8 million in 2020-21 and $9.1 million in 2021-22. A one-time effect in 2020-21 results from the difference between the tax year and fiscal year.

Fiscal Effect of Substitute Amendments. Based on the preceding analysis, the substitute amendments would reduce telephone company taxes by an estimated $1.5 million in tax year 2021. As more qualifying property is placed in service over the ensuing years, the tax reduction would increase each year and equal an estimated $5.5 million in tax year 2024. After the second exemption takes effect in the ensuing year, the tax reduction is estimated at $10.6 million in tax year 2025 and $11.3 million in tax year 2026. On a fiscal year basis, the decrease in GPR tax collections is estimated at $2.3 million in 2021-22, $3.5 million in 2022-23, $4.9 million in 2023-24, $6.0 million in 2024-25, and $13.0 million in 2025-26.

Prepared by: Rick Olin