



Legislative Fiscal Bureau

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May 6, 2014

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Public Service Commission: Sections 16.505 and 16.515 Requests for Position and Expenditure Authority -- Agenda Item II

REQUEST

On April 8, 2014, the Department of Administration (DOA) approved the creation of 3.0 PR positions and an increase in expenditure authority of \$716,000 for the Public Service Commission (PSC) under the s. 20.155(1)(g) appropriation for utility regulation. This approval is subject to a 14-day passive review by the Committee. On April 22, 2014, the Co-Chairs of the Committee sent a letter to DOA indicating that an objection had been made to this request and that the Committee would schedule a meeting to review it.

BACKGROUND

The PSC regulates electric, natural gas, steam, water, and combined water and sewer utilities and certain aspects of local telephone service. Under 2011 Wisconsin Act 22, telecommunications utilities in Wisconsin have become largely free of traditional utility regulation with respect to their offering of retail services to customers. The remaining state telecommunications functions are performed within the Division of Business and Telecommunications Services, which includes a State Broadband Office. Currently, the Office oversees the administration of a State Broadband Data and Development (SBDD) grant awarded by the National Telecommunications Information Administration (NTIA), U.S. Department of Commerce. Thus far, the state has been awarded \$4,540,152 in federal funds, which requires state matching funds of \$1,131,402. The grant covers the period from November 1, 2009 through October 30, 2014.

ANALYSIS

Approval of the request would allow the work begun under the SBDD grant to continue. The grant program was authorized under the federal Broadband Data Improvement Act of 2008, and

the American Recovery and Reinvestment Act of 2009 (ARRA) provided funding. ARRA requires NTIA to develop and maintain a comprehensive, interactive, and searchable nationwide inventory map of available broadband service capability. Through the grant program, each state has developed its own broadband map, subject to federal specifications, with a link to the nationwide map. Semiannual updates to the map are required that include information on the availability, speed, and location of broadband services throughout the state. Updates also include information on the broadband services that schools, libraries, hospitals, and other community institutions use. Knowledge of the availability, speed, location, and use of broadband services facilitates planning for the future deployment of broadband services so that those services can be more fully integrated into local economies.

In 2009, the PSC was designated Wisconsin's lead agency for SBDD purposes and has constructed the state's broadband map. The PSC's initial submission to NTIA occurred on March 31, 2010, reflecting data as of June 30, 2009, and the PSC has provided semiannual updates to the map since then. The map is interactive and may be accessed through the websites of the PSC or the State Broadband Office (LinkWisconsin). The current map was updated in November, 2013, and reflects broadband coverage as of June 30, 2013. To fulfill the mapping requirement, the PSC:

- maintains a current list of broadband providers;
- confirms that the providers meet minimum download and upload speeds required under the SBDD grant;
- uploads data by census block from providers to reflect six specified service characteristics;
- aggregates the provider data into a Geographic Information System (GIS) layered map based on NTIA specifications;
- secures confirmation from providers that the map accurately depicts their service; and
- executes non-disclosure agreements with providers to protect their proprietary business information.

Semiannual updates are required because the market for broadband service is highly competitive and changes to service levels and areas are constantly occurring. While the map includes a tool that connects consumers with providers, the map is also useful in broadband planning, the other objective of the SBDD grant.

Broadband planning is important because it enhances the efficient allocation of broadband resources. These resources are valuable to the state's economic development and assist in the delivery of public safety services. Broadband services also improve the quality of life for the state's residents. The planning process has included the following activities, most of which are ongoing:

- interviewing individuals with broadband expertise and interests to develop priorities;
- recruiting members for nine geographically based regional planning teams;
- conducting focus groups to study each region's broadband usage;
- hosting annual broadband symposiums;
- performing statewide broadband demand surveys;
- developing a social and economic impact model;
- providing webinars on various subjects of broadband usage;

- issuing a reference guide for broadband terminology; and
- creating a state broadband playbook.

The request would allow the mapping and planning functions to continue when funding from the federal grant expires. The PSC requests \$716,000 in annual expenditure authority, which includes \$285,900 for salaries and fringe benefits, \$48,100 for materials, supplies, equipment, and travel, and \$382,000 for subcontractor costs. Because the federal grant continues until October 30, 2014, DOA recommends reducing the request for 2014-15 expenditure authority to reflect funding for eight months and placing the reduction (\$238,600) in unallotted reserve. This would ensure that the PSC has sufficient base year expenditure authority to continue the program in the 2015-17 biennium. Also, DOA notes that this would have the effect of reducing the increase in 2014-15 that would otherwise occur in the PSC's remainder assessment, which would be used to fund the request. The following table displays the allocated expenditure authority under the PSC's request and under DOA's recommendation:

	<u>PSC</u> <u>Request</u>	<u>DOA</u> <u>Recommendation</u>
Permanent Salaries	\$210,000	\$140,000
Fringe Benefits	75,900	50,600
Supplies and Services	430,100	286,800
Unallotted Reserve	<u>0</u>	<u>238,600</u>
Total	\$716,000	\$716,000

Although DOA maintains that unallotted reserve has been used in the past, the Committee more often limits the amount of spending authority to what is actually needed. The Committee could decrease the additional spending authority by the amount recommended for unallotted reserve, but endorse the inclusion of that amount in the PSC's base year funding for purposes of developing the 2015-17 biennial budget (Alternative #2). Under this alternative, the increase in the remainder assessment would automatically be limited to the authorized increase in spending authority.

The expenditure authority would be used to fund three permanent PR positions, which would be authorized under this request, as well as contracts with third party service providers. Two of the positions are currently full-time FED project positions, who serve as mapping architect and mapping coordinator. The other position would be newly-created under this request, and serve as outreach and communications manager. This position would serve as a clearinghouse for questions, concerns, and ideas from broadband regional planning teams, consumers, and providers. Under the federal grant, these functions are performed by subcontractors, but the PSC indicates it would be desirable to consolidate the functions in a single in-house manager. The positions would be assigned to the State Broadband Office (SBO), which would also include two already-created permanent PR positions. Subcontractors would be used to support the maintenance of existing planning and data collection tools.

Since two of the positions would be converted from project to permanent and funded with PR rather than FED revenues, the request would result in a net increase of one position. If the Committee does not want to authorize the additional position, the PSC could continue to use subcontractors. This would require shifting spending authority from salaries and fringe benefits to supplies and services. The following table displays the 2014-15 and ongoing spending authority under this approach without the use of unallotted reserve (Alternative #3):

	<u>2014-15</u>	<u>Ongoing</u>
Permanent Salaries	\$93,400	\$140,000
Fringe Benefits	33,800	50,600
Supplies and Services	<u>350,200</u>	<u>525,400</u>
Total	\$477,400	\$716,000

In addition to the activities described above, the SBO administers the broadband expansion grant program which was created in 2013 Wisconsin Act 20. The program provides grants to eligible applicants for the purpose of constructing broadband infrastructure in underserved areas. The Commission indicates that the broadband mapping and planning functions would be helpful in its administration of the broadband grant program.

The PSC's March 11, 2014, request to DOA discusses the impact of not approving the request:

(M)ost of the SBO's current work that relates to mapping and planning Wisconsin's broadband assets will cease. The federal SBDD grant supports all of the SBO's data collection projects, training efforts and some of its planning projects. The LinkWisconsin website, the Wisconsin interactive broadband availability maps, community and anchor institution data collection, mobile broadband apps for data validation and consumer-focused demand surveys will have to be shut down.

Except for a relatively small amount of federal revenue, most funding that the PSC receives is either program (PR) or segregated (SEG) revenues, generated by assessments on public utilities. The request would fund the additional expenditures through the PSC's remainder assessment, authorized under s. 196.85(2) of the state statutes. The remainder assessment is used to fund the PSC's PR expenditures that are not related to a specific utility, power district, or sewerage system, and is imposed on public utilities, power districts, and sewerage systems in proportion to each entity's gross operating revenues in the prior calendar year. While some of these entities are telecommunications utilities that provide broadband services, others are unrelated to the broadband industry.

If the Committee wants to continue the broadband program but wants the PSC to consider a different funding source, the positions could be authorized on an eight-month project basis. Permanent funding for the positions could then be sought in the 2015-17 biennial budget. Based on

the preceding alternatives, the Committee could authorize either three (Alternative #4) or two (Alternative #5) project positions. Under these alternatives, the additional spending authority would not be included in the PSC's base for purposes of developing the 2015-17 biennial budget.

A potential funding source is the state's Universal Service Fund (USF). The state USF is funded through PSC assessments on companies providing retail intrastate voice telecommunications services, and those assessments are used to fund a variety of programs relating to the accessibility and affordability of telecommunications service. Statutory authorization would be required before USF assessments could be used for the purposes discussed under this request. A separate Universal Service Fund exists at the federal level, administered by the Federal Communications Commission (FCC). In 2011, the FCC established the Connect America Fund by reforming its high-cost USF program. The new program is intended to ensure that consumers in rural, insular, and high-cost areas have access to modern communications networks capable of providing voice and broadband service at rates that are reasonably comparable to those in urban areas. Since 2012, eligible providers serving those areas have been able to recover some of their costs via payments from the federal USF.

ALTERNATIVES

1. Approve DOA's request to create 3.0 permanent PR positions and increase expenditure authority by \$716,000 under the s. 20.155(1)(g) appropriation for utility regulation. Require \$238,600 of that amount to be placed in unallotted reserve and direct the Commission to limit the increase in the remainder assessment in 2014-15, for purposes of this request, to \$477,400. Specify that the Committee intends for the PSC's base year budget authority to be increased by \$716,000 PR and 3.00 PR permanent, full-time positions for purposes of developing the 2015-17 biennial budget.

2. Modify DOA's request by eliminating the use of unallotted reserve and by reducing the amount of additional spending authority by \$238,600, thereby increasing expenditure authority by \$477,400 PR under the s. 20.155(1)(g) appropriation for utility regulation. Approve DOA's request to create 3.0 permanent PR positions. Specify that the Committee intends for the PSC's base year budget authority to be increased by \$716,000 PR and 3.0 PR permanent, full-time positions for purposes of developing the 2015-17 biennial budget.

3. Modify DOA's request by eliminating one of the requested positions, shifting spending authority related to that position from salaries and fringe benefits to supplies and services, and eliminating the use of unallotted reserve. Increase expenditure authority by \$477,400 PR under the s. 20.155(1)(g) appropriation for utility regulation in 2014-15 (which would include \$93,400 for salaries, \$33,800 for fringe benefits, and \$350,200 for supplies and services) and create 2.0 permanent PR positions. Specify that the Committee intends for the PSC's base year budget authority to be increased by \$716,000 PR and 2.0 PR permanent, full-time positions for purposes of developing the 2015-17 biennial budget.

4. Modify DOA's recommendation by authorizing the positions on a project basis and eliminating the use of unallotted reserve. Authorize the creation of 3.0 PR positions on a project

basis through June 30, 2015 and increase 2014-15 expenditure authority by \$477,400 under the s. 20.155(1)(g) appropriation for utility regulation (\$140,000 for project position salaries, \$50,600 for fringe benefits, and \$286,800 for supplies and services). Specify that these positions and amounts would not be included in the PSC's base year spending authority for purposes of developing the 2015-17 biennial budget.

5. Modify DOA's recommendation by eliminating one of the requested positions, shifting spending authority related to that position from salaries and fringe benefits to supplies and services, authorizing the remaining positions on a project basis, and eliminating the use of unallotted reserve. Authorize 2.0 PR positions on a project basis through June 30, 2015, increase 2014-15 expenditure authority by \$477,400 under the s. 20.155(1)(g) appropriation for utility regulation (\$93,400 for project position salaries, \$33,800 for fringe benefits, and \$350,200 for supplies and services). Specify that these positions and amounts would not be included in the PSC's base year spending authority for purposes of developing the 2015-17 biennial budget.

6. Deny the request.

Prepared by: Rick Olin