



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

December 11, 2019

Senate Committee on Utilities and Housing

Testimony on Senate Bill 321

Good morning!

Thank you Chair LeMahieu and committee members for hearing Senate Bill 321 (SB 321), which creates a telephone company tax exemption for property used to provide broadband service to a rural or underserved area.

Property taxes are generally assessed and collected at the local level. However, the telephone company property tax is a state levy on the real and tangible property used in providing telecommunication services. The tax is designed to approximate the local property tax. It is assessed by the Department of Revenue (DOR), and is taxed at the prior year's net property tax rate of the taxing jurisdiction in which the telephone property is located.

SB 321 provides an exemption from this tax for the infrastructure used to provide broadband service to a rural area, which is an area that is located outside a federal metropolitan area or is located in a municipality with a population under 14,000 residents. For the purposes of this legislation, an underserved area is defined as an area in the state in which Internet access service at the highest speed threshold described in the bill is not available from at least two wired providers.

Rep. Quinn and I reviewed the fiscal estimate prepared by the Department of Revenue which indicated that our bill would increase existing appropriations and increase costs for the department. However, the total fiscal impact was indeterminate.

We have drafted substitute amendment 1 to minimize the fiscal impact in the current biennium. Our goal is to encourage expansion of broadband service where it currently is unavailable. The amendment will delay the exemption for new broadband infrastructure until January 1, 2021, and the exemption for existing equipment will not take effect until January 1, 2025.

The delay will also afford eligible companies time to plan broadband projects in these underserved areas with this exemption in consideration. This targeted tax exemption will focus broadband expansion where it is needed most, and it has no fiscal impact on local governments, as the telephone company property tax is assessed and collected by the state.

Subsequent to introduction of the substitute amendment, we drafted a simple amendment. This amendment clarifies that the infrastructure must be “installed in” a rural or underserved area, and used to provide broadband in that rural or underserved area. Additionally, it further defines a rural area as a city, village or town with a population of less than 14,000 residents and a population density of not more than 2,500 per square mile.

When expanding broadband service into rural and underserved areas, the greatest cost is the initial investment in the infrastructure. SB 321 is one additional tool in the toolbox to help telephone companies provide access in less densely populated areas.

Thank you again for hearing SB 321, and your timely action on the bill.



Romaine Quinn

STATE REPRESENTATIVE • 75th ASSEMBLY DISTRICT

December 11, 2019

Chairman Marklein and members of the Committee:

Wisconsin has taken meaningful steps forward in our broadband grant program. A number of you have been advocating for expanding funding to that program for the last three sessions through the Rural Wisconsin Initiative. SB 321 will be a new tool for small internet providers to expand their services.

Wisconsin currently imposes a tax on telephone companies that, over time, has been expanded to apply to certain providers of internet as well. This tax adds to the economic challenge of expanding broadband coverage.

Because the telephone tax only applies to certain internet providers, many of the larger companies are already exempt from this tax. Lifting this burden on the smaller players will allow them to channel that money back into the infrastructure their communities need.

SB 321 provides an exemption to the telephone tax for providers that meet certain criteria: the infrastructure must serve a rural or underserved area and provide speeds of at least 25 megabits per second download and 3 mbps upload (the current definition of broadband). Under the bill, an “underserved area” is any area in the state served by fewer than two wired service providers, and a “rural area” is any area in the state that is located outside a federal metropolitan statistical area or is located in a city, village, or town with a population of not more than 14,000.

This exemption will apply to both infrastructure already in the ground, as well as future infrastructure. After receiving the Department of Revenue’s fiscal estimate, Senator Marklein and I introduced substitute amendment 1. The amendment provides that the exemption of existing infrastructure will not go into effect until January 1, 2025; the exemption for future infrastructure will go into effect on January 1, 2020. This will provide a slower glide path for the fiscal impact to the state, as well as give companies time to adjust their plans to factor in the tax exemption.

Senate Bill 321 is the next step in Wisconsin’s efforts to expand broadband access to everyone in our state. It will encourage small internet providers to reinvest their own capital in expanding coverage to the hardest to reach rural areas in our state, and will put our smaller providers on a more even footing with the larger companies.



Legislative Fiscal Bureau

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October 31, 2019

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 ($50.37\% \times 67.25\% \times 33.50\% = 11.35\%$). 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.

\$ 1.5 million

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