

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4808
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: NOVEMBER 2, 2020

SUMMARY

- Synopsis:** Establishes office in BPU to assist in provision and expansion of broadband Internet service in State to address inequities in accessing broadband service.
- Type of Impact:** Increased State and Local costs.
- Agencies Affected:** Board of Public Utilities; Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
Local Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that the bill will result in an increase in State and local government unit utility costs as ratepayers. The cost to the Board of Public Utilities (BPU) to set up a new office and support new broadband projects will need to be supported in the same manner as other BPU activities, through the imposition of charges on the Statewide utility rate base, which is ultimately paid in the form of higher utility costs. Most State and local government units are utility customers and as such will be impacted as well.
- After utilizing any federal grants or outside funds that become available, the remaining costs of the bill may require an increase in the charges imposed on landline phone customers and cable television customers, which currently fund the BPU Office of Cable Television and Telecommunications.
- The scope of costs that the BPU and Economic Development Authority (EDA) will realize in expanding broadband service and establishing a broadband office cannot be known at this time because it is based on funding and need determinations to be made by the BPU after the

- enactment of the bill. Once those costs are identified, federal and other funds will first be sought to cover those costs. Once those outside funding sources have been exhausted, the BPU will likely have to support remaining costs through the imposition of additional fees on ratepayers, which is how the BPU generally covers its operating costs.

BILL DESCRIPTION

This bill establishes in the Board of Public Utilities (BPU) a “Broadband Assistance Office.” The broadband office is to be responsible for formulating and executing a comprehensive Statewide policy that fosters the provision of wired broadband service by government or private entities developing a broadband project, or both, if these entities develop a broadband project under a public-private partnership (P3) agreement, and for the development, promotion, coordination, oversight, and approval of a broadband project developed pursuant to the bill. The broadband office, in cooperation with the EDA, is to establish guidelines for the broadband office’s approval, designation, operation, and reporting of a proposed broadband project, including any proposed broadband project developed under a P3 agreement, in a manner determined by the broadband office. The broadband office, in cooperation with the EDA, is to oversee, coordinate, and provide assistance to a broadband project approved by the broadband office. The broadband office is to consult and coordinate with representatives of other State departments, agencies, boards, and authorities, including the EDA and the Office of Information Technology (OIT), as these entities deem necessary and appropriate to accomplish the goals of the bill.

To accomplish the broadband office’s duties and responsibilities, it is to be responsible for certain obligations enumerated in the bill concerning the facilitation of the establishment of broadband projects. In evaluating a proposed broadband project, the broadband office is to consider certain criteria provided in the bill.

The bill establishes in the BPU a separate non-lapsing fund to be known as the “State Broadband Fund” for use by the broadband office to adequately and properly perform the duties and responsibilities in carrying out the requirements of the bill. The BPU, in consultation with the EDA, is to determine the level of funding and the appropriate administration of the broadband fund. With financial assistance from the EDA and any available funding from federal, State and private entity sources, the BPU is to provide sufficient funding to the broadband office to enable the broadband office to provide funding for underserved communities to pay for broadband service and for the installation or expanded use of broadband infrastructure for communities that lack broadband access, specifically the portion of a communications infrastructure network that physically reaches the residents' or small business’s premises within those communities. The bill allows the BPU, in consultation with the EDA, to seek and accept gifts, donations, grants, or loans from public or private sources, including, but not limited to, any funding provided by the Federal Communications Commission or any funding from a non-profit foundation, specifically for the provision of broadband infrastructure or broadband service, except that the BPU and EDA are not to accept a gift, donation, grant, or loan that is subject to conditions that are inconsistent with any other law of this State.

The bill requires the BPU, in consultation with the EDA, to annually prepare a report to the Governor and the Legislature concerning the number, nature, structure, and scope of each broadband project developed, and whether the broadband project is developed under a P3 agreement. The report is to address any issues related to the implementation the bill, including staffing and resource requirements of the broadband office, and set forth recommendations regarding how the processes and methods adopted to foster the development of broadband projects and any related P3 agreements under the bill may be improved, expanded, or made more efficient.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will result in an increase in State and local government unit utility costs as ratepayers. The cost to the BPU to set up a new office and support new broadband projects will need to be supported in the same manner as other BPU activities, through the imposition of charges on the Statewide utility rate base, which is ultimately paid in the form of higher utility costs. Most State and local government units are utility customers and as such will be impacted in the same manner as other utility customers.

The primary cost components of the bill involve the establishment of the new broadband assistance office, and then subsequently, P3 ventures entered into with the assistance of the EDA to deploy broadband service in areas that are currently underserved. The cost of operating this office and the BPU share of costs under these P3 agreements to increase broadband deployment cannot be known at this time. Under the bill, the BPU is required to study the issue and make the determination of the need as part of the requirements of the bill, so the cost will be determined by decisions made after the bill is enacted.

Once the BPU determines how to proceed on potential new broadband deployment via P3 agreements, the bill directs the BPU and EDA to pursue outside funding to support these activities. Notably the federal government imposes a monthly charge on broadband service that is supposed to fund the expansion of broadband service nationwide. The BPU would presumably pursue some of this funding from the federal government as well as any other grants and aid made available for these purposes. Once outside sources of funding have been exhausted, the remaining cost will need to be filled from another source. It is possible that these costs could be covered through State appropriation; however that is not the general funding model used to cover BPU operations. The BPU is self-funded through the imposition of charges on the utility services which it regulates.

The BPU Office of Cable Television and Telecommunications is currently funded through charges imposed on landline phone customers and cable television customers. It is possible that these charges may also be used to cover the cost of the broadband office under this bill, as those are the charges that appear to be most closely related to broadband service. Alternatively the BPU could utilize funding from other charges that it imposes on utility rates, or potentially even create a new charge to fund this new office. The ultimate source of funding is not prescribed in the bill; however, given historical funding of the BPU it would be likely to come through a ratepayer charge.

Rate payer charges are spread across an entire customer base for a given utility type, based upon the manner in which the BPU imposes the charge. State and Local government units are part of those customer bases, and would be subject to those charges as well. As a result, any BPU costs covered through rate increases, indirectly result in additional State costs in the form of higher utility costs. The magnitude of the State and local costs through increased utility rates, is going to be far smaller than the actual increase in funding generated by the BPU, because the amount is spread over the entire utility rate base, of which State and local governments make up a relatively small portion.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Patrick Brennan
Principal Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).