

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1756 - HB 1755

March 5, 2018

SUMMARY OF BILL: Requires all internet service providers (ISPs) selling broadband internet service to customers within Tennessee to practice net neutrality. Prohibits all state and local government entities from contracting with an ISP who does not practice net neutrality. Prohibits an ISP who contracts with a state government entity from supplying goods or services to any state government entity for one year upon a determination by the Tennessee Public Utility Commission (TPUC) that the provider is not practicing net neutrality.

Authorizes TPUC to assess ISPs a civil penalty, up to \$2,000 per day, for violating net neutrality requirements. Establishes an Internet Consumer Access Fund (ICAF), administered by TPUC, and requires all assessed civil penalties be deposited into such fund.

Authorizes the consumer advocate division of the Attorney General's office, or a party injured by a violation of net neutrality, to bring a contested case before TPUC against the ISP.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – Unknown increases in civil penalty revenue and unknown increases in administrative expenditures to the Tennessee Public Utility Commission. The extent to which the Commission will have to utilize reserve funds, if any, to temporarily fund this legislation prior to sufficient funding becoming available within the Internet Consumer Access Fund cannot reasonably be determined due to unknown factors.

Assumptions relative to contracts:

- ISPs, who provide broadband internet service within the state, will be prohibited from (1) blocking lawful content, applications, or services; (2) impairing or degrading lawful internet traffic on the basis of internet content; (3) engaging in paid prioritization; (4) unreasonably interfering with or disadvantaging a customer's ability to use broadband internet access service or an edge provider's ability to make lawful content available; and (5) engaging in deceptive or misleading marketing practices that misrepresent the treatment of internet traffic or content.
- According to the Department of General Services, there are an estimated 30 ISPs currently providing services to state and local government entities.

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- As a condition of providing broadband internet service to any customer within Tennessee, ISPs will be required to practice net neutrality; therefore providers responding to contracts for providing services to state or local government will be practicing net neutrality as a condition of providing broadband internet service within this state.
- Any impact to state or local government relating to contracting requirements is estimated to be not significant.

Assumptions relative to TPUC administration:

- Under current law, pursuant to Tenn. Code Ann. § 65-2-101, a contested case means all legal proceedings before the TPUC in which the legal rights, duties, or privileges of specific parties are determined after a hearing before the TPUC.
- Pursuant to Tenn. Code Ann. § 65-2-103, every petition filed with the TPUC shall be accompanied by a filing fee of \$25 per party, with such fees remaining with TPUC for administrative purposes.
- According to TPUC, the commission has the capacity to hear and process contested cases within existing resources.
- TPUC is authorized to assess a civil penalty up to \$2,000 per day against any ISP who violates net neutrality, with all such civil penalties deposited into the ICAF.
- The proposed language requires all costs of the TPUC associated with administering the required oversight of internet services providers to be paid from the ICAF.
- TPUC is a self-funded agency, receiving and remitting no funds to or from the General Fund. Due to TPUC's self-funded operation, any first year costs will be funded through any reserves currently in the possession of the TPUC, until enough revenue is obtained within the ICAF to cover expenditures associated with such administration.
- The extent of any reserves held by TPUC which will be utilized for first year expenditures, and if the ICAF will obtain enough revenue to cover the costs associated with administering the proposed language, is unknown and cannot reasonably be estimated.

IMPACT TO COMMERCE:

Other Fiscal Impact – Practicing net neutrality will not result in any significant impact to commerce or jobs in Tennessee. The extent of any increase in business expenditures associated with fines assessed by the Tennessee Public Utility Commission cannot reasonably be determined.

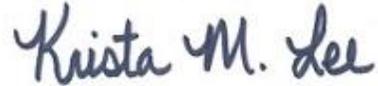
Assumptions:

- Practicing net neutrality while providing internet services to customers within Tennessee will not result in any significant impact to commerce or jobs within Tennessee.

- Due to multiple unknown variables such as the total number of ISPs providing broadband access to customers in the state, the number of such providers who will choose to violate the required net neutrality and the extent of any penalties assessed by the TPUC, a precise impact to business expenditures associated with payment of fees cannot reasonably be determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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