

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 172 - SB 210

March 4, 2019

SUMMARY OF ORIGINAL BILL: Increases, from three to five business days, the amount of time prior to an annual meeting which a mail ballot concerning the election of members of a board of directors for a rural electric cooperative must be delivered to the cooperative.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004906): Deletes all language after the enacting clause. Deletes an antiquated provision restricting rural electric cooperatives from providing service in certain areas. Prohibits a rural electric cooperative from providing certain services in the service area of certain telephone cooperatives.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Other Fiscal Impact – A precise increase in state government revenue from collection of F&E taxes cannot reasonably be determined.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 65-25-103 and § 65-29-102, rural electric cooperatives and telephone cooperatives are nonprofit entities.
- Pursuant to Tenn. Code Ann. § 65-25-134(c)(2), rural electric cooperatives are not authorized to provide certain services within the services area of a telephone cooperatives. The proposed legislation specifies that this prohibition applies only to telephone cooperative service areas established prior to April 24, 2017.
- The proposed legislation is applicable only to services provided by nonprofit entities; therefore, any fiscal impact to local government is estimated to be not significant.

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- Pursuant to Tenn. Code Ann. § 67-4-2007(a) and § 67-4-2105(a), nonprofit businesses are not responsible for paying franchise and excise (F&E) taxes, except for earnings and net worth which is garnered outside of the original scope of business for which nonprofit status was originally granted.
- It is assumed that any rural electric cooperative opting to provide broadband service will now be responsible for paying F&E taxes. However, due to multiple unknown variables such as how many rural electric cooperatives will opt to provide broadband service, how many will not be prohibited, under the provisions of this legislation, from expansion into certain areas, and the extent of their earnings and net worth earned from expanded broadband service; a precise increase in state revenue cannot reasonably be determined.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Other Fiscal Impact – Due to multiple unknown factors, a precise impact to business revenue and jobs in Tennessee cannot reasonably be determined.

Assumptions for the bill as amended:

- Authorizing rural electric cooperatives to provide certain services in the service area of telephone cooperatives formed after April 24, 2017 may result in a change to business revenues for private companies currently providing such services within the specified area; however, the extent of private businesses currently providing those services, the extent of customers with a new option in such services, and the extent of any impact to rates charged by private business for such services as a direct result of the competition provided by rural electric cooperatives, are all unknown.
- Due to multiple unknown factors, a precise impact to business revenue and jobs in Tennessee cannot reasonably be determined.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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