



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4210 (Substitute H-1 as passed by the House)
Sponsor: Representative Beth Griffin
House Committee: Communications and Technology
Senate Committee: Energy and Technology

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CONTENT

The bill would amend Public Act 282 of 1905, which provides for the assessment of property owned, operated, or conducted by certain companies, to exempt from taxation under the Act eligible broadband equipment that was exempt from the collection of general ad valorem property taxes under the General Property Tax Act.

The bill is tie-barred to Senate Bill 46, which would amend the General Property Tax Act to exempt from the collection of taxes under the Act certain eligible broadband equipment. The bill would take effect 90 days after its enactment.

Under the bill, beginning December 31, 2020, eligible broadband equipment of a qualified business would be exempt under Section 5(1)(b) from taxation under the Act if it was exempt from the collection of general ad valorem property taxes under Section 9p of the General Property Tax Act, and if a claim for the exemption under Section 5(1)(b) were filed properly as described below.

(Section 5(1)(b) of Public Act 282 of 1905 specifies that property for telegraph companies and telephone companies includes property that would be subject to the collection of taxes under the General Property Tax Act. Senate Bill 46 would add Section 9p to the General Property Tax Act to exempt from the collection of taxes under the Act eligible broadband equipment that resolved lack of broadband service by delivering high-speed internet access at speeds of at least 25 megabits per second (Mbps) downstream and three Mbps upstream and eligible broadband equipment that resolved lack of broadband service provided by a qualified business that had been selected to receive funding to support the expansion of broadband networks from the Federal Communications Commission, among other entities.)

To claim the exemption under Section 5(1)(b) of Public Act 282 of 1905, a qualified business would have to file electronically a statement from an officer of the qualified business, or otherwise provide similar certification in a form and manner prescribed by the Department of Treasury, specifically describing the equipment for which the exemption was claimed and certifying that all the requirements for the exemption were met as to that equipment. The statement or certification would have to be filed with the Department by February 20 of each year that the exemption was claimed.

The bill specifies that "eligible broadband equipment", "lack of broadband service", and "qualified business" would mean those terms as defined in proposed Section 9p of the General Property Tax Act.

(Proposed Section 9p of the General Property Tax Act would define "eligible broadband equipment" as any personal property acquired by a qualified business, such as fiber optic and coaxial cable, conduit, pole attachment hardware, cabinets, pedestals, amplifiers, routers, servers, multiplexers, antenna, and related equipment that is used in the transmission or receipt of data in at least one direction, was first installed by the qualified business after December 31, 2020 and before December 31, 2025, and has been used by the qualified business for fewer than 10 years. "Lack of broadband service" would mean either no terrestrial internet access or access to terrestrial internet delivered at speeds of less than 10 Mbps downstream and one Mbps upstream. "Qualified business" would mean a person who provides terrestrial broadband service, including terrestrial wireless broadband service.)

Proposed MCL 207.5c

Legislative Analyst: Tyler VanHuysse

FISCAL IMPACT

The bill would reduce property tax revenue to the State by an unknown magnitude that would depend on the specific characteristics of equipment exempted by the bill and the businesses that owned the equipment. The exemption would apply only to eligible broadband equipment first installed or used after December 31, 2020, so while any revenue loss could be foregone revenue, over time exempted property could include property that replaced existing personal property currently being taxed. The exemption would reduce State-assessed property tax revenue, which is deposited into the General Fund.

The bill uses definitions and an exemption provided under Section 9p of the General Property Tax Act; that section would be added by Senate Bill 46, to which the bill is tie-barred. However, Senate Bill 46 contains language that could result in administrative issues that ultimately could affect the amount of revenue loss. As identified in the analysis for Senate Bill 46, while "lack of broadband service" is defined, it does not define the conditions to be met for equipment to have been considered to "resolve" a lack of service. Given that broadband services can be delivered through various media, including satellite services, fiber-optic cable, DSL connections, wireless connections (including through cell phones), and broadband over powerlines, it may be difficult for taxpayers and assessors to know if an area lacks broadband service or if the area simply lacks any service of a particular medium. Furthermore, it is unclear if the definition would consider a location that did have broadband access under one medium to "lack" broadband service if broadband service were available through a different medium. Finally, to the extent that broadband access involves networked equipment, the definitions would appear to allow new equipment placed in areas that currently have broadband service as long as the equipment was part of a network that expanded to offer service in an area that lacked service.

Certain market demographics could limit the revenue reduction comprised of forgone revenue (i.e. taxes that otherwise would have been levied on equipment that would not have been placed into service absent the bill). Over the last 20 years, Michigan has pursued a variety of options to create an incentive for or subsidize broadband deployment into underserved areas of the State. Additionally, multiple Federal programs seek to expand broadband access into underserved areas. One factor that hampers these efforts is the lack of a significant market for broadband services in certain locations. In some locations, connectivity has existed at various times but was terminated because it was not commercially viable.

To be eligible for an exemption, eligible equipment must have a minimum download speed of 25 Mbps and upload speeds of at least three Mbps. Data indicate that as of September 2020, 94.5% of Michigan households are served by services that offer at least 25 Mbps connectivity. Furthermore, approximately one-third of households that do not subscribe to internet access

service indicate the service is too expensive. On a county basis, 54 counties exhibit service rates that cover more than 80% of households, while only four counties exhibit coverage rates below 50% (eight counties are below 60%). These figures include both households without access as well as households that elect not to subscribe to broadband access.

Given these demographics, there is limited market potential for firms seeking to expand access and a significant chance that providing access would not result in a sufficient number of additional subscribers. Assuming any tax savings were passed on to consumers, the property tax exemption under the bill would be unlikely to lower prices sufficiently to entice those who do not subscribe for cost reasons to join, given that broadband in Michigan is more affordable than the national average and compared to the cost of the acquisition, maintenance and operational costs of the equipment. The limited number of potential additional subscribers also limits the growth opportunities for firms seeking to reach those households. As a result, while the bill's forgone revenue could be minimal, as equipment is replaced or upgraded, there is a substantial chance that equipment that is part of the existing tax base could be subject to the exemption, which would reduce revenue to the State.

While the millage rate on all commercial, industrial, and utility property averages 53.3 mills, inclusive of a variety of existing exemptions, commercial personal property that would be affected by the bill already is exempt from 12 mills of property taxes levied for school operating purposes. Similarly, most areas with lower levels of broadband coverage are located in rural areas that exhibit lower millage rates. The four counties with the lowest rates of broadband coverage exhibit an average millage rate on commercial personal property of approximately 39.7 mills. While the number of miles of eligible broadband equipment that would be affected by the bill is unknown, and because State-assessed property covered by the bill is taxed at the statewide average rate, under an estimated cost of \$30,000 to \$40,000 per mile for such equipment, the bill would affect property taxes at a cost of between \$780 and \$1,066 per mile. How the bill would be applied, and the associated revenue impact of providing broadband access via satellite or wireless, is unknown, although a taxpayer could not claim the exemption for any equipment associated with satellite broadband services unless it also offered terrestrial broadband services.

Fiscal Analyst: Ryan Bergan
David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.