TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 1842 - SB 2857

February 29, 2024

SUMMARY OF BILL: Requires all critical telecommunications infrastructure within Tennessee to be constructed without the use of equipment or necessary components manufactured by a federally banned corporation, foreign adversary, entity owned by a foreign adversary, or a company domiciled within a foreign adversary. Requires the critical telecommunications infrastructure currently operating, including any that is not permanently disabled, to have all such equipment removed and replaced by December 1, 2025. Establishes that a telecommunications provider that removes, discontinues, or replaces any prohibited equipment is not required to obtain any additional permits from any state or local agency to do so as long as the relevant state or local authorities are properly notified and the replacement equipment is similar to the existing equipment.

Requires, by September 1, 2024, and then by January 1 of each subsequent year, a telecommunications provider to register with the Department of Safety (DOS) prior to providing services within Tennessee, and to pay an annual registration fee not to exceed $50. Requires such providers to keep the DOS informed of relevant contact information, and to certify to the DOS by January 1 of each year that all critical telecommunications equipment and infrastructure within its operation are free of any prohibited equipment. Requires the DOS to impose a fine against any provider that violates the proposed requirements, either related to the use of prohibited equipment or false statements, of not less than $10,000 per day, and no greater than $100,000 per violation or form, with each day of noncompliance constituting a separate violation. Prohibits any provider who fails to comply with the requirements from receiving any state or local funds, or federal funds distributed by state or local governments, for the development or support of new or existing telecommunications infrastructure.

Authorizes the DOS to promulgate rules to effectuate the legislation.

Effective upon becoming a law for the purpose of promulgating rules. Effective for all other purposes July 1, 2024.

FISCAL IMPACT:

Other Fiscal Impact – The proposed legislation is estimated to result in significant increases in state and local expenditures related to replacing prohibited equipment and components from existing telecommunications networks and from future increased costs of construction. Additional increases in state expenditures are expected for the Department of Safety related to

establishing a new division to enforce compliance with the legislation's requirements. The legislation could result in decreases in state and local business tax revenue if there are significant disruptions to the operations and revenue of telecommunications providers. There will be a recurring increase in state revenue related to annual fees paid by telecommunications providers to the Department of Safety and fines paid by providers for noncompliance. Due to numerous unknown variables, none of these impacts can be quantified with any reasonable certainty at this time.

Assumptions:

- "Federally banned corporation" is defined by the legislation as a company or designated equipment currently banned by the federal government, including a ban resulting from the following federal agencies or acts:
  - the Federal Communications Commission, including equipment or service deemed to pose a threat to national security identified on the covered list developed pursuant to 47 CFR 1.50002;
  - the Department of Commerce, including the department's Bureau of Industry and Security;
  - the Cybersecurity and Infrastructure Security Agency;
  - the Federal Acquisition Security Council; or
  - section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. No. 115-232, § 889).
- "Foreign adversary" means:
  - the People's Republic of China;
  - the Russian Federation;
  - the Islamic Republic of Iran;
  - the Democratic People's Republic of Korea;
  - the Republic of Cuba;
  - the Venezuelan regime of Nicolás Maduro;
  - the Syrian Arab Republic;
  - an agent or another entity under the control of one of these countries; or
  - another entity designated by the Governor in consultation with the DOS.
- The amount of equipment or number of components currently in operation in public and private telecommunications networks in Tennessee that would be prohibited under this legislation is not known. The presence of such equipment in these networks however is assumed to be significant.
- It is not known the number of public or private entities that would be required to replace equipment under the legislation's requirements, the extent to which each would be required to do so, or the costs associated with replacement.
- It is assumed that state and local governments and various entities thereof will incur significant increases in expenditures in at least FY24-25 and FY25-26 related to replacing the equipment as required. The extent of these increases cannot be quantified.
- It is further assumed that the prohibition relative to future construction could result in additional increases in expenditures.

- The legislation is assumed to task the DOS with enforcement of the proposed equipment prohibitions, as well as requiring the DOS to maintain a system of registration and certification for contact information and compliance among telecommunications providers.
- The DOS estimates that it would need to establish a new division of the department specialized and dedicated to these tasks. The DOS was unable to estimate the size or contours of such a division, or the amount of personnel or equipment that might be required. As such, a precise increase in state expenditures to the DOS to comply with its prescribed duties cannot be determined at this time.
- The DOS will realize an increase in state revenue related to the annual $50 registration fee required of telecommunications providers to register with the department. Due to the unknown number of providers that would be required to register today or in the future, a precise estimate of such increase cannot be determined.
- It is assumed that many affected entities will have trouble meeting the extent of the legislation's requirements by the December 1, 2025 deadline. Accordingly, it is assumed that the state could realize a significant increase in revenue related to $10,000 per day fines for noncompliance. A precise estimate of this revenue increase cannot be quantified.
- To the extent that telecommunications networks may be temporarily disrupted, potentially impacting the operations and revenue of providers, the legislation could create state and local business tax impacts. Due to the unknowns about any such disruptions, such potential decreases in state and local business tax collections cannot be precisely estimated.

IMPACT TO COMMERCE:

Other Commerce Impact – The proposed legislation is assumed to create significant increases in expenditures for private telecommunications providers related to replacing prohibited equipment in their network infrastructure and from future increased costs of construction. Replacing such equipment is also assumed to create the potential for significant disruptions to the services such entities provide. Due to the unknowns regarding the extent of the presence of prohibited equipment in such infrastructure, a precise estimate of these impacts cannot be quantified.

Assumptions:

- Private telecommunications providers will be required to replace any equipment deemed prohibited by the proposed legislation. The extent to which such equipment is currently present in the network infrastructure of such providers is not known. It is however assumed to be significant.
- It is assumed that such providers will realize a significant increase over at least the next two years related to the efforts to claw such equipment from the providers' network infrastructure and replace it with equipment that is compliant. This, in turn, could create

significant challenges to providers to maintain uninterrupted services during the replacement effort. Disruptions to services could result in significant decreases in business revenue. Due to multiple unknowns about what will be required of each of the relevant providers to bring their infrastructure into compliance with the legislation, and any business disruptions that may follow as a result, a precise estimate of such impacts to private providers cannot be reasonably determined.

- The legislation is not estimated to have a significant impact on jobs in Tennessee.

CERTIFICATION:

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

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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