COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3909-01
Bill No.: SB 816
Subject: Economic Development Department; Fees; Political Subdivisions; Revenue Department; Taxation and Revenue.
Type: Original
Date: January 17, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue*	$0	$0	$0
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0**	**$0**

*** Offsetting income and expenses**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	**($36,551 to Unknown)**	**($37,452 to Unknown)**	**($38,402 to Unknown)**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)** state this bill creates a local fee imposed upon video service provides, which would be collected quarterly by DOR on behalf of the political subdivisions. DOR is to collect, administer, and distribute the fee (to the political subdivisions). The political subdivisions are required to notify DOR of any change in the fee within 30 days so DOR can notify the video service providers of the change.

DOR assumes the bill would have the following administrative impact on their divisions:

TAX - Business Tax would require 1 Tax Processing Technician I (at $22,992 annually) to administer the tax, handle correspondence, distribute the taxes, and coordinate with DED to register and begin collection of the tax.

CA - If the field offices are to be involved in the collection and administration of this fee, CA will need 1 Taxpayer Services Representative for every 4,800 contacts. The additional costs of this FTE has not been included in DOR's estimate.

This legislation makes no mention of liens being filed as part of the collections process. If so,

ASSUMPTION (continued)

additional lien fees would be needed in the County Filing Fee Fund. If the Prosecuting Attorney and collection agencies were part of the collections process, again, additional fees would be needed in the collections fee fund for reimbursement on collections.

IT - This is a new fee and would require a program of its own. DOR may be able to create a small program much like the tire fee or battery fee systems. DOR proposes to cover the costs with current IT staff. Effective July 1, 2006, our IT staff will be moved to OA pursuant to consolidation, but we have no reason to believe this transfer will limit our ability to absorb these costs. In the event multiple new credits/deductions are passed, this cost could exceed current appropriation levels and result in additional funds being requested.

Forms - This fee would require DOR to create reporting forms much like the tire fee program. DOR would require additional printing funds equaling approximately $1,992 per 1,000 vouchers printed. DED records currently shows 192 companies using the SIC of 4841 (cable television), however, they are uncertain as to how accurate this number really is. DOR has no way of determining how many video service providers are actually doing business in Missouri or how many new video service providers would do business in Missouri due to this new legislation. The printing cost of forms is undeterminable at this time.

DOR assumes costs from the additional FTE of roughly $45,000 annually.

Oversight assumes the DOR will not pay for additional floor space for this additional FTE and have removed this cost from their estimate. Oversight will estimate an additional $2,000 per year in expenses for DOR for the printing of forms. Oversight also assumes the 1% collection fee will be sufficient to cover the costs incurred by the Department of Revenue.

Officials from the **Department of Economic Development (DED)** state the bill does not appear to have any significant fiscal or administrative impact on DED. The bill may require the PSC Telecommunications Section to give video service authorization to operate in Missouri.

Officials from the **Public Service Commission** and the **Office of Public Council** each assumed the proposal would not fiscally impact their respective agencies.

Officials from the **City of St. Louis** state that franchise fees currently collected under federal law would be reduced because SB 816 specifically excludes certain revenue sources on which franchise fees are now calculated and paid:

ASSUMPTION (continued)

home shopping commissions,
advertising income,
revenues from late fees
franchise fee line items

In St. Louis these items represent from 13.6% to 15.9% of gross revenues per quarter over the past two years, representing a potential annual loss of $217,00 to $252,000 in franchise fees which could be collected. Furthermore, the City would lose franchise fees withheld by the Missouri Department of Revenue as a collection fee. Depending on interpretation of the SB 816 language, this lost amount would be either 1% of amount collected by the state on behalf of the City (approximately $16,000 a year) or, if the language intends that the 1% the state keeps is actually 1/5 of the 5% and the City receives only 4% net, the loss would be approximately $320,000 annually.

Therefore cash losses in eligible fees are estimated to range from $233,000 (14.6 % annual reduction) to $572,000 (35.7% annual reduction) both of which would severely curtail activities funded from these revenue sources.

The bill bans any local franchise requirements. Therefore such community benefits as free cable tv hookups in schools, or Emergency Alert Announcements on video channels, or support for PEG Access channels cannot be required of new entrants. The burden of those costs would be shifted to the City or its public schools system, or lost altogether.

Officials from the **City of Springfield** state the proposal reduces their current revenue by not allowing franchise fee on some of the operator revenue the city now receives: advertising revenue, fiber leasing, and other non-subscriber revenue. This could be $200,000 per year lost revenue to the City of Springfield.

Springfield also states that Public Education Government (PEG) channels are not required or protected in the bill. An operator could chose not to carry these channels. Therefore, the city could lose the value of their television channel, which the city assumes to be millions.

Springfield also states that additional funding beyond the 5% franchise fee is pre-empted so the city would lose the $100,000 per year capital grant to maintain and purchase good equipment.

Springfield also states that under this bill, franchise fees are paid to the state quarterly, and then redistributed after up to 1 percent cut by the Department of Revenue. The city assumes this will result in a loss of revenue of up to $120,000 per year.

ASSUMPTION (continued)

In summary, the City of Springfield assumes the legislation will negatively impact their city in the millions.

Officials from the **City of Kansas City (CKC)** state the bill provides for State collection of local franchise fees. The City of Kansas City currently operates its own Revenue Division to collect local taxes and fees not otherwise already collected by the State of Missouri. The savings for the City by having the State collect and distribute video fees is nonexistent because there are so few organizations doing this business. Kansas City has two that pay this fee, Comcast and Time Warner. The collection of these fees by the State will save the City of Kansas City no money. Moreover, the City will still have to have employees to receive and process payments from the State.

CKC states the bill requires the City to pay to the State up to 1% of the money collected by the State for redistribution to the City. The City anticipates in its current budget to collect $3.8 million from cable television providers. One percent of that amount is $38,000. The cost of receiving the check from Time Warner Cable and Comcast (who pays only a few thousand dollars each year), reducing the amount by 1%, keeping the interest, and sending the money to Kansas City is far less than $38,000 per year. There is no savings to the City, there is only a revenue stream going to the State.

The proposed legislation provides that the charge will be "up to 1%" so if the actual expense is less, the City will receive more than 99% of what is now collects. CKC assume they could end up paying for the collection of the fees for many of the smaller cities of the State.

Furthermore, any savings that would be experienced by the City from collecting checks from cable companies will not be real, since the City will have to receive and process the money - just from the State not the companies. This figure will increase each year as video rates continue to increase far beyond inflation

CKC additionally states that the bill will impose a loss because video providers will be permitted to meet their obligations to serve through satellite services, which are not be subject to fees. Losses will be experienced because video providers will no longer be required to serve an entire city. Increases in customers receiving pay video services that would be expected if a true build-out requirement was imposed will not be experienced.

Officials from **Jasper County** state the proposal would not fiscally impact counties.

ASSUMPTION (continued)

Oversight found that according to the Statistical Abstract of the United States: 2002, cable and satellite providers collected $43,047,000,000 in revenues in 2000. Applying the 5% ceiling for video service provider fee and dividing that number by 50 (50 states), DOR could anticipate collecting $43.07 million in video service provider fees. One percent of this is roughly $430,000 annually, which is sufficient to cover its anticipated costs from this proposal.

Officials from the Office of the Secretary of State did not respond to **Oversight's** request for fiscal impact.

This proposal will increase Total State Revenues.

FISCAL IMPACT - State Government	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE			
Income - Video Service Provider Fee of up to 5% of gross revenue of competitive video service provides' gross revenue	Unknown	Unknown	Unknown
Costs - Department of Revenue			
Personal Service (1 FTE)	($19,639)	($24,156)	($24,760)
Fringe Benefits	($8,653)	($10,643)	($10,909)
Expense and Equipment	($8,259)	($2,653)	($2,733)
Total Costs - Department of Revenue	($36,551)	($37,452)	($38,402)
Costs - Distribution from DOR to local political subdivisions - less up to 1% of collections to cover DOR costs	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT TO GENERAL REVENUE	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2007 (10 Mo.)	FY 2008	FY 2009
LOCAL POLITICAL SUBDIVISIONS			
Loss - the state's DOR now collects the cable service franchise fees and keeps up to 1% to cover its costs before distributing remainder to local franchise entities	($36,551)	($37,452)	($38,402)
Loss - potential loss of revenue if gross revenue calculations are computed on a different basis by DOR than previously by local political subdivisions.	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	**($36,551 to Unknown)**	**($37,452 to Unknown)**	**($38,402 to Unknown)**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This act requires certain entities to possess video service authorizations which will constitute franchises. The Department of Economic Development will govern the application process for video service authorizations. The state of Missouri will be the exclusive franchising authority for competitive video service providers in the state.

The act prohibits any franchising entity or other political subdivision of the state from requiring a competitive video service provider to obtain a separate franchise or otherwise impose any fees, license, or gross receipts tax in order to provide video service. A competitive video service provider must provide distribution capacity and make reasonable, technically feasible efforts to retransmit community programming.

DESCRIPTION (continued)

Any entity that elects or seeks a video service authorization must describe the service area footprint in its application to the department of economic development. Any entity holding a video service authorization may amend its service area footprint upon notice to the department of economic development. An entity holding a video service authorization must provide at least ten days prior notice to each franchising entity with jurisdiction in a locality before providing video service in such entities jurisdiction.

The video service provider fee must be paid to the Department of Revenue on a quarterly basis and shall be calculated at a rate not to exceed five percent of gross revenue. In exchange for its collection, administration and distribution functions, the Department of Revenue will retain a collection fee of up to one percent, but not to exceed actual costs incurred, on all fees collected. The department may collect interest off such funds during the time between collection and distribution of the fees to the franchising entity. A competitive video service provider may identify and collect the amount of video service provider fee as a separate line item on the regular bill of each subscriber.

The Department of Revenue must be notified in writing within thirty days of any change in the franchise fee adopted by a political subdivision. Any such change in franchise fees may only take effect on the first day of a calendar quarter and only after a minimum of ninety days notice from the department of revenue to the video service provider. The Department of Revenue will have authority to audit any entity holding a video service authorization. The Department of Revenue must furnish a political subdivision with information requested to permit the political subdivision to review the payments of any competitive video service provider or incumbent cable operator.

The act prohibits a video service provider from denying access to service to any group of potential residential subscribers because of the income of residents in which such group resides.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Department of Economic Development
City of Kansas City
City of St. Louis
City of Springfield
Jasper County

NOT RESPONDING: Office of the Secretary of State

Mickey Wilson, CPA
Director
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