COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3909-11
Bill No.: SCS for SB 816
Subject: Economic Development Department; Fees; Political Subdivisions; Revenue Department; Taxation and Revenue
Type: Original
Date: February 27, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	($64,543)	($79,387)	($81,372)
Total Estimated Net Effect on General Revenue Fund	**($64,543)**	**($79,387)**	**($81,372)**

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 8 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	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)** state this legislation creates a local fee imposed upon video service providers, to be collected quarterly by the political subdivisions where the franchise provides services.

DOR states this version of the proposal has been moved from Chapter 143 to Chapter 67, where it is more suited. The fee is administered on a local level and DOR has been removed from the process. Therefore, DOR assumes the substitute will not fiscally impact its agency.

Officials from the **Office of Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $1,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

Officials from the **Department of Economic Development - Public Service Commission (PSC)** state the bill requires the PSC to certificate video service providers. The wording of the bill appears to contemplate an application process that will include an affidavit whereby the applicant attests to the various requirements necessary to obtain the video franchising certification. Details for the application process will be worked out through a rulemaking as contemplated by the bill, but the Commission must decide a request within 30 days of receipt. This accelerated application process will impose additional work on the PSC, but it is not anticipated that additional FTE or costs will be incurred. Additional impacts are unclear. The PSC may be further potentially impacted if the PSC is expected to play a role, via a complaint case, in ensuring compliance with additional statutory requirements. Finally, the bill requires the PSC to issue a report describing the status of competition in the provision of video services and make recommendations to increase the provision of such services. In summary, the PSC assumes the bill not have a fiscal impact on its agency.

Officials from the **Department of Economic Development - Office of Public Counsel (OPC)** state the bill would create a new area of utility regulation under the jurisdiction of the Public Service Commission. OPC would require an engineer to provide the office with the necessary expertise required to be addressed and to handle the additional duties created.

This bill will -- at a minimum -- require Public Counsel to: 1) acquire a working knowledge of cable network design, appropriate quality standards, build-out time and costs; 2) develop an understanding of the technical problems a competitive service provider may have in retransmitting community programming and emergency interrupt service and reasonable timeframes for overcoming the problems; 3) be able to verify that video service provider fees are appropriately calculated, and insure that they reflect the appropriate cost components and revenue offsets; and 4) meaningfully participate in the Public Service Commission investigation into the status of competition in the provision of video services. Adding a Public Utility Engineer to the staff will enable the office to manage these additional responsibilities.

OPC assumes the need for one FTE Public Utility Engineer I (at $52,452 annually) plus fringe benefits and expense and equipment. OPC assumes a cost of roughly $80,000 annually to the General Revenue Fund.

Officials from **Hickory County** assume the bill not fiscally impact their county.

In response to a previous version of the proposal, officials from the **City of St. Louis** stated 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

ASSUMPTION (continued)

paid such as:
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.

Officials from **St. Louis County** state that assuming they would incur similar losses as stated by officials from the City of St. Louis, 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:

1. home shopping commissions
2. advertising income
3. revenues from late fees
4. franchise fee line items

St. Louis County has projected that the loss of gross revenue by Charter to 3rd party providers would be approximately 5% in 2006, 15% in 2007, and 30% by 2008. St. Louis County has also estimated that the items specified in SB 816, as now being excluded from gross revenue for any 3rd party providers, would result in an approximate reduction of 10% to 15% of their annual gross revenue calculation. The latest revisions stated in LR# 3909-11, that moves the bill sections to chapter 67 and allows franchise entities to audit video service providers at their own expense, does not carry any fiscal significance, however, according to the revision that requires payment to the political subdivisions rather than to the Department of Revenue, we would no longer incur the loss of the 1% collection fee. Therefore, based upon these inferences, our projected annual loss of revenue for the three years referenced is 10% - 15%, and is as follows:
2006 - ($8,000 - 12,000)
2007 - (24,000 - 36,000)
2008 - (48,000 - 72,000)

Revised 2008 - 80,000-120,000 based on AT&T's projection of acquiring 50% of this market by the end of 2008.

These loss amounts will be dramatically increased once our agreement with Charter is no longer in effect.

ASSUMPTION (continued)

In response to a previous version of this proposal, officials from the **City of Springfield** stated the proposal reduces their current revenue by not allowing franchise fees 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 stated 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.

Subsection 67.2683.7 states "nothing in Sections 67.2675 to 67.2685 is intended to alter any of the terms of any existing franchise agreement between a cable operator and a franchising entity." Therefore, **Oversight** will range the local political subdivision fiscal impact from $0 (based on Subsection 67.2683.7) to Unknown loss of revenue (based on response from cities and counties).

FISCAL IMPACT - State Government	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE			
Costs - Office of Public Counsel (OPC)			
Personal Service (1 FTE)	($44,803)	($55,107)	($56,485)
Fringe Benefits	($19,740)	($24,280)	($24,887)
Expense and Equipment	$0	$0	$0
Total Costs - OPC	($64,543)	($79,387)	($81,372)
ESTIMATED NET EFFECT TO GENERAL REVENUE	**($64,543)**	**($79,387)**	**($81,372)**

FISCAL IMPACT - Local Government	FY 2007 (10 Mo.)	FY 2008	FY 2009
LOCAL POLITICAL SUBDIVISIONS			
Loss - potential loss of revenue if gross revenue calculations are computed on a different basis with bill than previously by local political subdivisions.	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**

FISCAL IMPACT - Small Business

Small business cable operators could be fiscally impacted as a result of this proposal.

DESCRIPTION

This act requires certain entities to possess video service authorizations which will constitute franchises. The Public Service Commission 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, gross receipts tax, or request anything of value in exchange for providing video service. A competitive video service provider must provide distribution capacity and make reasonable, technically feasible efforts to retransmit community programming and emergency interrupt service. If a competitive video service provider is unable to retransmit community programming or emergency interrupt service for technical reasons, the provider must notify the public service commission in writing and disclose to all potential consumers that its service will not include community programing or emergency interrupt service. The Public Service Commission may order the competitive video service provider to address the technical difficulties and retransmit community programing or emergency interrupt service after a reasonable period of time.

This act allows franchise entities to audit entities possessing video service authorizations which provide video service within the franchise entity's jurisdiction. The entity holding a video service authorization must make available for inspection all records relating to services provided and

DESCRIPTION (continued)

taxes paid or owed upon request of the franchise entity. Any expenses incurred, by a franchise entity, in conducting an audit of an entity holding a video service authorization shall be paid by the franchise entity.

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 Public Service Commission shall issue a certificate of video service authorization within thirty days of receipt of an affidavit containing certain information from the applicant.

The video service provider fee must be paid to the political subdivision, in which service is provided, on a quarterly basis and shall be calculated at a rate not to exceed five percent of gross revenue. 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 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. The Public Service Commission is required to issue a report by August 28, 2010, detailing the status of competition in the provision of video services and to make any necessary recommendations for legislative reform.

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 Economic Development
  Public Service Commission
  Office of Public Counsel
Department of Revenue
Office of the Secretary of State
St. Louis County
St. Louis City
City of Springfield

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