COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0368-03
Bill No.: SB 284
Subject: Fees; Political Subdivisions; Public Service Commission; Revenue Dept; Taxation and Revenue - General
Type: Original
Date: January 24, 2007

Bill Summary: Authorizes state-wide video service franchise agreements

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	$0	$0	$0
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
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 2008	FY 2009	FY 2010
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☐ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	**$10,540,648 to (Unknown)**	**$10,540,648 to (Unknown)**	**$10,540,648 to (Unknown)**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development - Public Service Commission** assume no fiscal impact to the Commission.

Officials from the **Department of Economic Development - Office of Public Counsel** state that the proposed legislation, as written, would result in a small fiscal impact that could be absorbed with existing resources.

Officials from the **Office of State Courts Administrator** state this proposal has no fiscal impact on the Courts.

Officials from the **Department of Revenue - Division of Taxation** do not anticipate the need for additional FTE as a result of this proposed legislation. DOR does anticipate costs for programming in order to handle the collection and distribution of the new tax/fee.

Officials from the **Office of Administration Information Technology (ITSD DOR)** estimate the IT portion of this request can be accomplished within existing resources, however; if priorities shift, additional FTE/overtime would be needed to implement. (ITSD DOR) estimates that this legislation could be implemented utilizing 4 existing CIT III for 4 months at a rate of $66,976.

Officials from the **City of St Louis** estimate revenue reductions of approximately $300,000; however some of that revenue reduction will be potentially offset by in increase in revenue due to inclusion of IP and satellite video service providers in the base. (*§* 67.2689)

Officials from the **City of Kansas City** provided the following estimates of fiscal impact of the proposed legislation:

The proposed legislation, by prohibiting certain current practices, will impose significant costs upon the City.

These costs will include replacement equipment now provided every three years by the incumbent cable television provider. Under the current franchise the amount over a 15 year period is $700,000 worth of equipment. (§ 67.2703.8)

Additional costs will be the price of the institutional network. Time Warner Cable has provided an institutional network used by hospitals, libraries, the KC Police Department, and the KC Fire Department. The KCFD use includes connecting all fire stations to the main department office and to the fire academy for training purposes. The lack of an institutional network will necessitate overtime costs for off-site training or multiple training sessions in each fire station. Costs will be incurred for these new training purposes and for the replacement of the institutional network now provided without cost to the public safety agencies and colleges. (§ 67.2703.9)

To retain the government access channel a high number of new local programs must be produced. Despite an almost $1 million budget and 12 employees for the City's Communications Office, the City will be required to invest heavily in more equipment and more employees to meet the required standard of programming to retain the government channel so viewers will have access to City government meetings and information. These costs will be in the hundreds of thousands depending upon the quality of programming used to meet the artificial level of new programming required by the proposed legislation. (§ 67.2703.4)

Depending upon the interpretation of the provisions dealing with VOIP, it is possible the City will lose the business license tax now being received from Time Warner. (§ 386.305)

Losses will result from the inability to require PEG support and to require the companies to provide the equipment necessary to connect to the PEG facilities at one place. (§ 67.2703.8)

The proposed legislation provides for an increase in sales tax revenue from direct broadcast satellite providers of video programming. It is unknown the extent of the increase in revenues because it is dependent upon the number of DBS subscribers living within Kansas City. (§ 144.020)

Officials from the **City of Excelsior Springs** stated that, based upon the average amount of cable franchise fees collected over the past five years, the proposed legislation would cost the City of Excelsior Springs approximately $67,685 per year. (§ 67.2689) City officials could not estimate the sales tax amount on satellite services that would be generated for the City (if any). (§144.020)

Officials from the **City of West Plains** indicated the proposal would appear to have significant fiscal impact on the city, but the amount is unknown at this time.

ASSUMPTION (continued)

Officials from the **City of Poplar Bluff** assume revenues could be lowered, but did not determine a cost estimate. (§67.2689)

According to officials from the **City of Springfield**, this proposal reduces the revenue on which a franchise fee is calculated by redefining "gross revenue" to exclude items currently recognized as revenue to the company. This reduces receipts for the City of Springfield by approximately $600,000 over three years. (§67.2689.1)

The ability to audit the Video Service Provider (VSP) franchise fee payments is effectively reduced by the inability of the City of Springfield to recoup any expenses of an audit even if the VSP is grossly under paying. At $15,000 to $25,000 per audit per franchisee (assuming 2 franchisees in Springfield) this will cost $90,000 to $150,000 over three years. (§ 67.2691)

The PEG (Public Education and Government channels) requirements could result in the loss of annual grant to support capital equipment: a loss of exactly $300,000 over three years. (§ 67.2703)

The VSP is only responsible for carriage of the PEG programming – the cities are responsible for transmission of the programming to the head-end and in a format acceptable to the provider. This could cost anywhere from a few thousand to several hundred thousand dollars, depending on what will be required by the franchisee subjectively. Estimated one-time cost: $300,000. (§ 67.2703.7)

Additionally, the requirement for carriage of the PEG channels in the lowest tier has been changed to the tier with 50% of the subscribers. The ability to provide basic information to citizens (council meetings) is substantially impaired. The franchisee is allowed to move PEG channels anywhere on the dial (from channel 23 to 90, for instance) potentially costing the entire value of the television channel (TV23). The value of this station is at least a million dollars, but more probably several million: this will cost assets valued in the millions. (§67.2705)

No free service to municipal buildings, schools, libraries, and law enforcement facilities would cost the city, alone, approximately $90,000 over three years. (§ 67.2703.5)

A request for fiscal note response was sent to several counties, none of which responded. **Oversight** assumes the counties would see an increase in revenues as a result of the tax on direct satellite broadcast services. Many households in county areas do not have access to cable television and therefore rely on satellite television services.

ASSUMPTION (continued)

Oversight assumes, based on information from Media Business Group, that as of January 1, 2004, there were 631,921 direct broadcast satellite subscribers in Missouri. The estimated annual revenue from the tax proposed in § 144.020 would be $11,375,000.

Oversight was unable to get an complete estimate of the costs to political subdivisions; however, based on the responses received, the estimate of costs will be ranged from ($834,352 to Unknown) annually.

FISCAL IMPACT - State Government	FY 2008	FY 2009	FY 2010
GENERAL REVENUE			
Income - Sales Tax on sales of direct broadcast satellite services (§ 144.020)	$11,375,000	$11,375,000	$11,375,000
Transfer Out - Disbursement of sales tax to political subdivisions (§ 144.020)	($11,375,000)	($11,375,000)	($11,375,000)
EXPECTED NET EFFECT ON GENERAL REVENUE	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2008	FY 2009	FY 2010
POLITICAL SUBDIVISIONS			

Income - Revenue from sales tax on sales of direct broadcast satellite services (§ 144.020)	$11,375,000	$11,375,000	$11,375,000
Cost - Lost revenue from franchise fee recalculation (§ 67.2689) PEG programming requirements (§ 67.2703), and audit expenses (§ 67.2691)	($834,352 to Unknown)	($834,252 to Unknown)	($834,352 to Unknown)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	**$10,540,658 to (Unknown)**	**$10,540,658 to (Unknown)**	**$10,540,658 to (Unknown)**

FISCAL IMPACT - Small Business

A small business that is a cable franchise or a satellite service provider would be required to pay an additional fee/tax for offering services within political subdivisions.

FISCAL DESCRIPTION

§ 67.2689 Political subdivisions are allowed to collect a video service provider fee equal to not more than five percent of the gross revenue from each video service provider providing service in the political subdivision. The video service provider fee shall be the same for all video service providers providing service within the same franchise entity. Video service providers will pay the video service provider fee at the same rate assessed on incumbent cable providers immediately prior to the effective date of the act. Political subdivisions will be allowed to make necessary adjustments to the video service provider fee's rate once a year upon ninety days notice to the video service provider.

The video service provider fee must be paid to each political subdivision served on or before the last day of the month following the end of each calendar quarter. Video service providers may pass the tax and any support required for PEG programming on to customers, provided they are listed as a separate line items on subscriber bills.

DESCRIPTION (continued)

§ 67.2691 Political subdivisions are provided audit authority over video service providers. Political subdivisions may audit video service providers providing service within their respective political subdivisions once per year with the cost of any such audit to be paid by such political

subdivision.

§ 67.2703 Political subdivisions may require up to three channels be designated by a video service provider for public, educational, or governmental (PEG) use dependent upon the population of the franchise entity. Incumbent cable operators will be subject to the provisions of the act regarding designation of channels for PEG use.

Designated PEG channels that are not substantially utilized may be terminated at the video service provider's discretion. Terminated PEG channels will be made available to political subdivisions within one hundred and twenty days of a determination being made by the governing body of such political subdivision that the channel will be substantially utilized. The expense of providing PEG channels shall be the sole responsibility of the political subdivision receiving the benefit of such channels. Political subdivisions must provide transmissions for PEG use in a compatible format for transmission by the video service provider without further alteration.

§ 144.020 The proposal allows for the imposition of a state sales tax on direct broadcast satellite service equal to five percent of the basic rate. Revenues derived from the imposition of the sales tax on satellite services will be distributed to the political subdivisions of the state based upon population.

This proposal contains an emergency clause.

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
    Division of Taxation
Department of Economic Development

LMD:LR:OD (12/02)

Public Service Commission
Office of Public Counsel
Office of State Courts Administrator
Office of Attorney General
Cities
Springfield
Poplar Bluff
Excelsior Springs
West Plains
St Louis
Kansas City

Mickey Wilson, CPA
Director
January 24, 2007

LMD:LR:OD (12/02)