

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0368-04
Bill No.: SCS for SB 284
Subject: Fees; Political Subdivisions; Public Service Commission; Revenue Dept;
Taxation and Revenue - General
Type: Original
Date: February 5, 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 <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> 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	(\$1,421,000 to Unknown)	(\$1,421,000 to Unknown)	(\$1,421,000 to Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue** state this proposal will have no fiscal impact on their agency.

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

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

In response to the introduced version of this proposal, 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 Attorney General** state that due to the likelihood of litigation over this proposal, AGO assumes that additional staffing (likely an experienced AAG III) and/or expense and equipment may be necessary on a temporary bases. Such costs would likely not exceed \$100,000. **Oversight** assumes the litigation is speculative and that any potential costs arising from this proposal can be absorbed with existing resources or funds could be requested through the budget process.

Officials from the **City of Centralia** assume this proposal will have no fiscal impact on their City.

Officials from the **City of Columbia** estimate the fiscal impact of this proposal as follows:

Costs will include replacement and capital equipment, operations, and programming. Columbia estimates \$1.5-\$2 million in additional costs to support PEG Channels. (*§ 67.2703*)

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.

Officials from the **City of St Louis** estimate revenue reductions of approximately \$300,000. (*§ 67.2689*)

ASSUMPTION (continued)

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)

Although SCS for SB 284 reduces the number of required new programs for PEG channels, still 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)

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 \$360,000 over three years. (§ 67.2689.1)

ASSUMPTION (continued)

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)

Depending on the impairment of delivery of the Access Channel, the City of Springfield also may lose or re-assign up to four full-time employees. Any savings of funds would have to provide other means of communicating with citizens including the purchasing of over-the-air time. Additional costs will be the price of the institutional network. The City of Springfield has the option under current agreements and law to request the development of an institutional network. To date that has not been requested; however, this section eliminates that option. An I-NET would connect all police and fire stations for communication and training purposes. Currently one of the access channels provides training to individual fire stations. The lack of an institutional network could 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.

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)

ASSUMPTION (continued)

Officials from the **City of St Charles** provided the following assumptions regarding fiscal impact of this proposal to their city:

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

This proposal appears to preempt federally sanctioned negotiated community benefits the City of Saint Charles and other community organizations use. These include gratis cable connections that allow the City Cable T.V. Office to monitor the City channel signal over the cable system to ensure that all components of the transmission system in our community are functioning properly. This provision also allows for video service to be installed in City Fire stations and Fire Department/Emergency Management offices, the City's Police Headquarters, water system operation centers, to St. Charles Senior Center and provides monitor service to the Department of Public Works, the City Administrator's Office and the Mayor's Office. Service is limited to basic and expanded basic tiers of service. The primary use is to monitor weather and news for local impact and, in the case of the Senior Center, for entertainment programming. Additional distribution points have been installed in City Hall to allow overflow crowds to watch City Council or other meetings in relative comfort of a conference room, the open lobby space of City Hall and the employee lunchroom. At approximately \$40.00 per month/\$480.00 per year, replacement cost for this currently free service to the City is estimated at approximately \$14,400 per year, given the reduction in revenue anticipated due to the various exclusions to the definition of "gross revenues." (§ 67.2703.5)

The same provision in our franchise requires cable installation and service to St. Charles R-6 School District facilities. We do not know the extent of their use so it is impossible to project a replacement cost to them. Additionally, our cable franchise requires a channel be provided for the School District that is used to import Cooperating School District (CSD) educational programming from St. Louis. This is not a programming channel to subscribers. It was the one request from the District during our Community Needs Assessment that is required under federal franchising rules. The value Charter would set for this connection is impossible to predict; however, it is likely to be more than the School District can afford. (§ 67.2703.5)

An additional cost factor is not making provision for continuing use of live telecast insertion points offered by the cable operator, which uses their signal distribution system to show remote events on the City Access Channel. The points that are currently constructed include the City's Emergency Management Center at the Police Headquarters capable of carrying emergency and recovery information to residents of the City and surrounding areas; and, the Jaycee Stage in Frontier Park, from which we have telecast live weekly Municipal Band concerts, Fourth of July

ASSUMPTION (continued)

festivities, and other Park events. The City franchise also calls for connection point access at the local Convention Center, which is currently being negotiated. Without access to that system under terms of our franchise the alternatives are to drop production of any live remote programming, purchase the same service we now receive for free at whatever rate may be set by the cable operator, or the City will be required to purchase a broadcast microwave system which will cost between \$60,000 and \$80,000 depending on antenna mast configuration (distances are too great for cheaper 2.4 and 5.8 GHz wireless units which, also, are unlicensed and are susceptible to interference from other users of that spectrum-locations are not line-of-sight which might facilitate use of laser or other lower cost wireless devices). Microwave may also necessitate hiring of an engineer to ensure that FCC licensing standards are maintained; an additional \$20,000 to \$30,000 per year for a part-time salary position. (§ 67.2703.5)

A standalone, broadcast device that converts analog video and audio into digital form with MPEG 2 or 4 compression can be very costly. We estimate that device will cost in the range of \$15,000 as a one-time capital purchase. Lower cost estimates for such a device usually anticipate that the conversion is done using a computer production device with a PCI bus printed circuit board card installed. That will not be the case in most production systems used for higher end, live multicamera production as well as video program playback; the cost will be higher. (§ 67.2703.6)

To retain the government access channel a high number of new local programs must be produced which cannot be accomplished without incurring additional costs. The City of Saint Charles does not have the resources that larger population political subdivisions would have and our Cable Office does double duty, now, in franchise oversight and cable complaint processing, with the primary obligation to create programming for the City Channel. Increasing programming to meet the requirements of this legislation is likely to create expenses in the \$50,000 range for either additional personnel or hiring of contract producers, just to meet the required volume of programming to retain the government channel so viewers will have access to City government meetings and information. (§ 67.2703.4)

The proposed legislation will reduce revenue per subscriber. There is no way to project the number of subscribers (dependent on whether/when a competitive video provider was to actually begin providing service and the number of customers who subscribe. Because of change to definition of "gross revenue" from our current franchise language, and discounting of subscriber rates to entice competitor's customers away, the reduction is anticipated to be in the ten (10) to twelve (12) percent range. We do not expect that there will be a significant increase in total subscribers to all competitive operators, combined, in that range and expect revenue to be

ASSUMPTION (continued)

reduced by eight (8) to ten (10) percent, or between \$38,400 and \$48,000 per year.
§ 67.2689 - § 67.2703 (3) & (5) & (6) & (8)

Additionally, in past franchise renewals and transfers, the City has negotiated for one-time grant funding to support the City's production and programming efforts. In the 2001 franchise renewal, with what was then AT&T Cable-now Charter Communications, the City requested a single \$50,000 capital support grant to which AT&T agreed. Those monies funded equipment necessary to use live remote telecast signal insertion capabilities, to upgrade to DV format digital remote production and to buy our first non-linear computer-based editing system. There will be no further franchise renewal negotiations and such support funding is prohibited under this proposal. (*§ 67.2689 - § 67.2703 (3) & (5) & (6) & (8)*)

Officials from **Boone County** assume revenue would be generated for the Boone County General Operating Fund, but did not identify the sources of the anticipated revenue.

Officials from **St Louis County** submitted the following estimate of fiscal impact on their county:

County-wide Public Safety/Public Service Network (PSN) - The incumbent cable television provider has an on-going obligation for the life of the current franchise to provide, support, and maintain the County's PSN, which benefits the St. Louis County Police and St. Louis County Department of Highways and Traffic. The new sub bill will eliminate this obligation starting January 1, 2009. The cost of replicating the PSN is approximately \$445,000 annually, starting in 2009. (*§ 67.2703.8*)

Due to the narrowing of the definition of franchise fees, the amount of franchise fees could be reduced by approximately \$63,000 per year, starting in 2007. (*§ 67.2689.1*)

Beginning January 1, 2009, this proposal, as presently worded, jeopardizes funding for the Higher Education Channel (HEC-TV), which currently receives \$1.1 million per year from the incumbent cable television provider. (*§ 67.2703*)

Beginning January 1, 2009, this draft eliminates funding in the amount of \$60,000 per year from the incumbent cable television provider for the support of cablecasting of public hearing, special meetings, and other events of interest to the citizens of St. Louis County. (*§ 67.2703*)

Oversight assumes St Louis County is referring to calendar year; for fiscal note purposes Oversight will show these costs per fiscal year.

ASSUMPTION (continued)

In response to the introduced version of this proposal, 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.

In response to the introduced version of this proposal, officials from the **City of Poplar Bluff** assume revenues could be lowered, but did not determine a cost estimate. (§ 67.2689)

In response to the introduced version of the proposal, 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)

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 (\$1,421,000 to Unknown) annually. Costs were evenly divided among the three fiscal years, since it is unknown in which fiscal year one-time costs could occur.

<u>FISCAL IMPACT - State Government</u>	FY 2008	FY 2009	FY 2010
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2008	FY 2009	FY 2010
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POLITICAL SUBDIVISIONS

Cost - Lost revenue from franchise fee recalculation (§ 67.2689) PEG programming requirements (§ 67.2703), and audit expenses (§ 67.2691)

(\$1,421,000 to <u>Unknown</u>)	(\$ 1,421,000 to <u>Unknown</u>)	(\$1,421,000 to <u>Unknown</u>)
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**ESTIMATED NET EFFECT ON
 POLITICAL SUBDIVISIONS**

<u>(\$1,421,000 to Unknown)</u>	<u>(\$1,421,000 to Unknown)</u>	<u>(\$1, 421,000 to Unknown)</u>
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FISCAL IMPACT - Small Business

A small business that is a cable franchise 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.

§ 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.

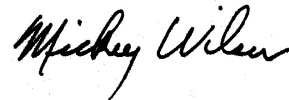
DESCRIPTION (Continued)

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
Department of Economic Development
 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
 Centralia
 Columbia
Counties
 St Louis
 Boone



Mickey Wilson, CPA
Director
February 5, 2007