COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0368-06
Bill No.: HCS for SS for SCS for SB 284
Subject: Fees; Political Subdivisions; Public Service Commission; Revenue Dept; Taxation and Revenue - General
Type: Original
Date: March 12, 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 12 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	**(Unknown - More than $100,000)**	**(Unknown - More than $100,000)**	**(Unknown - More than $100,000)**

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** and **Office of Public Counsel** state this proposal will have no fiscal impact on their respective agencies.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate that this legislation will not significantly alter its caseload; however, if other similar bills also pass, there will be fiscal impact. If there are more cases, or more complex cases, there could be a fiscal impact.

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

§67.2692

Total personnel cost for the complaint contact, for City complaint computer system entry, distribution and complaint closing, administrative review, and any follow up can amount to about $500 per complaint or around $15,000 per year at current complaint experience frequencies.

ASSUMPTION (continued)

§67.2703.1

Placing Government Access in a marketing tier that has fifty percent or more of a provider's subscriber base may require subscribers to pay for additional tier component programming and may necessitate rental or purchase of additional terminal equipment (converter) to receive that signal. If use of the City's cable channel is retarded by the tier on which it is located it will require higher expenditures for the City to pursue additional media distribution methods.

§67.2703.4

To retain the government access channel, a number of new local programs must be produced which cannot be accomplished without incurring additional costs. 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 operation of a channel so viewers will have access to City government meetings and information.

§67.2703.5

This section of HSC/SS/SCS/SB 284 appears to preempt the federally sanctioned, negotiated community benefits the City of Saint Charles and other community organizations use. Continuing the same number of connections with basic and expanded basic cable services will cost between approximately $14,400 per year, if a discounted rate is provided ($40.00 per month/$480.00 per year per connection), to $19,800 per year if there is no discount and a converter is required ($55.00 per month/$660.00 per year per connection).

Our franchise requires cable installation and service to St. Charles R-6 School District facilities. HSC/SS/SCS/SB 284 will remove any such requirement and expose the District to expenses they can ill afford. 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 the cable T.V. franchise renewal 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.

An additional cost factor is caused under this section by 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. Without access to that system under

ASSUMPTION (continued)

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.

§67.2703.6

This section continues to require "The franchise entity" to be responsible for the form of signal which is sent to a video service provider on PEG channels. 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. An additional cost factor is that the compression technology changes over time and this may be a new purchase requirement, without compensation, every two to three years as MPEG 5/6/7/8 or some other compression technology become the video service providers' standard. Also, each competitor may select a different technology which pyramids any cost of this requirement.

§67.2689 - §67.2703 (3) & (5) & (6) & (8)
The proposed legislation will reduce revenue on a per subscriber basis. Because of the change to the definition of "gross revenue" from our current franchise language and discounting of subscriber rates to entice competitor's customers, the reduction is anticipated to be in the ten (10) to twelve (12) percent range. Although there is no way to project numbers of subscribers, (dependent on whether/when/where a competitive video provider actually begins providing service and the number of customers who take the service) the City does not expect that there will be a significant increase in total subscribers to all competitive operators, combined, of that magnitude and the City expects revenue to be reduced by eight (8) to ten (10) percent, or between $38,400 and $48,000 per year.

Additionally, in past franchise renewals and transfers, the City has negotiated one-time grant funding to support the City's production and programming efforts. No further franchise renewal negotiations can occur, transfers of ownership will not require local approval and such support funding is prohibited under this proposal.

ASSUMPTION (continued)

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

Although the bill reduces the number of required new programs for PEG channels, still to retian the government access channel, a high number of new local programs must be produced. The City wil be required to invest heavily in more equipment and more employees to meet the required standard of programming to regain the government channel so viewers will have access to City government meetings and information. Educational institutions may not be able to provide such programming; therefore, this proposal could eliminate educational access channels. This would require the public schools to increase taxes or do away with learning opportunities. *(§67.2703.4)*

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. 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. Losses may result from the risk of constant rebranding of PEG channels as they are moved about the companies' channel lineups, assuming one or more PEG channels will meet the requirements to exist. *(§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)*

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)*

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)*

ASSUMPTION (continued)

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.

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)*

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)*

In response to earlier versions of this proposal, 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. This substitute 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)*

Oversight assumes that since the House Substitute extends the date to January 1, 2012, the cost

ASSUMPTION (continued)

of replicating the PSN would not start until that date.

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 cable casting of public hearing, special meetings, and other events of interest to the citizens of St. Louis County. *(§67.2703)*

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

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

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.

Officials from the **City of Columbia** estimate that the fiscal impact could be between $1.5 to $2 million if all financial support for PEG channels was eliminated on or before January 1, 2012. *(§67.2703.8)*

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)*

According to officials from the **City of Gladstone,** in response to an earlier version of this proposal, costs will include replacement and capital equipment, operations, and programming. Equipment to access a new video system to broadcast the City's Government Channel would cost

ASSUMPTION (continued)

$15,000 to $20,000. Monthly service charges for a connection to a new system would be $500 to $600, or $6,000 to $7,200 per year. *(§67.2703)*

Oversight was unable to get a complete estimate of the costs to political subdivisions. Also, §67.2703.8 (1) states: "The obligation of an incumbent cable operator to provide monetary and other support for PEG access facilities contained in a franchise existing on the effective date of sections 67.2675 to 67.2714 shall continue until the term of the franchise would have expired if it had not been terminated pursuant to sections 67.2675 to 67.2714 or until January 1, 2012, whichever is earlier." **Oversight** assumes certain costs to local subdivisions will not occur until after January 1, 2012, but is unable to estimate which costs may be deferred. For fiscal note purposes, **Oversight** will range the costs to local political subdivisions as (Unknown - Will exceed $100,000).

FISCAL IMPACT - State Government	FY 2008	FY 2009	FY 2010
	$0	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2008	FY 2009	FY 2010
POLITICAL SUBDIVISIONS			
Cost - Lost revenue from franchise fee recalculation (§67.2689) PEG programming requirements (§67.2703), and audit expenses (§67.2691)	(Unknown - More than $100,000)	(Unknown - More than $100,000)	(Unknown - More than $100,000)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	**(Unknown - More than $100,000)**	**(Unknown - More than $100,000)**	**(Unknown - More than $100,000)**

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.

§67.2692

Upon ninety days notice, a political subdivision may require certain video service providers to adopt customer service requirements consistent with federal regulations. Video service providers must adopt informal processes for handling customer concerns. In the event an issue is not resolved, the act allows for confidential non-binding mediation with costs to be shared equally among the political subdivision and video service provider. In the case of repeated, willful, and material violations of the customer service standards provided in the act, a franchise entity may file a complaint with the administrative hearing commission on behalf of a aggrieved resident. The decision of the administrative hearing commission may be appealed in court of competent

DESCRIPTION (continued)

jurisdiction. Franchise entities are prohibited from filing a complaint seeking revocation unless sixty days notice was provided to the video service provider to cure alleged breaches.

§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.

Video service providers will have the same obligations to support PEG access facilities as the incumbent cable operators.

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
- Gladstone
- St Charles

Counties
- St Louis
- Boone

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