

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4260-09
Bill No.: SS for SCS for HCS for HB 1779
Subject: Public Service Commission: Telecommunication
Type: Original
Date: April 29, 2008

Bill Summary: Changes provisions relating to Voice Over Internet Protocol Service and the Underground Facility Safety and Damage Prevention Act; Authorizes the Public Service Commission to assess a penalty for violating any order relating to federal natural gas safety standards

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on General Revenue Fund			

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Road Fund	(\$138,500 to \$275,000)	(\$277,000 to \$550,000)	(\$277,000 to \$550,000)
State School Moneys Fund*	\$0 to Unknown	\$0	\$0
Total Estimated Net Effect on Other State Funds	(\$138,500 to \$275,000)	(\$277,000 to \$550,000)	(\$277,000 to \$550,000)

*Offsetting Revenue and Transfers Out are \$0 to Unknown in FY 2010 and FY 2011
 Numbers within parentheses: () indicate costs or losses. This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
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 2009	FY 2010	FY 2011
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Secretary of State (SOS)** assume 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 to the SOS office for Administrative Rules for this proposal is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

§386.020 through 392.520 - Voice Over Internet Protocol Service

Officials from the **Department of Economic Development - Public Service Commission** and **Office of Public Counsel** state there would be no fiscal impact to their respective agencies resulting from this proposed legislation.

Officials from the PSC stated the impact on local city governments will probably be positive given the proposed language in §392.550.3(5)(c) and (d) requiring Voice Over Internet Providers to help pay for 911 plus pay applicable license and taxes.

§319.015 through 319.050 - Underground Facility Safety and Damage Prevention Act

Officials from the **Department of Agriculture, Department of Natural Resources, Department of Economic Development - Public Service Commission** and **Office of Public Counsel**, and **Office of Administration - Division of Facilities Management, Design and Construction** and the **Administrative Hearing Commission** assume no direct fiscal impact to their respective agencies as a result of this proposed legislation.

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

Officials from the **Department of Transportation (MoDOT)** assume this proposed legislation amends the definition of "underground facility" which will result in MoDOT becoming part of Missouri One Call System. This would require MoDOT to locate all underground facilities, including storm drainage pipes, prior to the excavation period and, if requested, the design stage

ASSUMPTION (continued)

of construction projects.

MoDOT officials state that as currently written, this proposal would require One Call to ask requesters if they intend to work on public rights of way. MoDOT assumes the new procedure could potentially reduce the number of requests by 40% to 70%. Based on the potential reduction, approximate costs for One Call membership would range from \$550,000 to \$277,000 annually.

The proposal states that Missouri One Call participants are not required to respond to a notice of intent to excavate received directly from an excavator, except for requests to clarify markings or for requests made during an emergency. MoDOT assumes this language could be interpreted as creating an exception for excavators from receiving a permit from MoDOT to work on MoDOT right of way, which could expose MoDOT to additional liability from accidents caused by excavators. In addition, MoDOT could be liable for an excavator's attorney fees if MoDOT sues an excavator alleging damage to an underground facility caused by an excavator.

Oversight assumes the liability issues are speculative and therefore, for fiscal note purposes only, assign no cost for this portion of the proposal.

In response to the introduced version of this proposal, officials from **St Louis County** and **Kansas City** stated there would be no fiscal impact to their respective political subdivisions.

This portion of the proposal has an effective date of January 1, 2009.

386.572 - Penalties for violating federal natural gas safety standards

Officials from the **Department of Economic Development - Public Service Commission** and the **Office of Public Counsel** assume this proposal will have no fiscal impact on their respective agencies.

According to officials from the **Department of Natural Resources (DNR)**, while the Federal government is primarily responsible for developing, issuing, and enforcing pipeline safety regulations, the pipeline safety statutes provide for State assumption of the intrastate regulatory, inspection, and enforcement responsibilities under an annual certification. To qualify for certification, a state must adopt the minimum Federal regulations and may adopt additional or more stringent regulations as long as they are not incompatible. A State must also provide for injunctive and monetary sanctions substantially the same as those authorized by the pipeline

ASSUMPTION (continued)

safety statutes.

Two statutes provide the framework for the Federal pipeline safety program. The Natural Gas Pipeline Safety Act of 1968 as amended (NGPSA) authorizes the U.S. Department of Transportation (USDOT) to regulate pipeline transportation of natural (flammable, toxic, or corrosive) gas and other gases as well as the transportation and storage of liquefied natural gas (LNG). Similarly, the Hazardous Liquid Pipeline Safety Act of 1979 as amended (HLPSA) authorizes the USDOT to regulate pipeline transportation of hazardous liquids (crude oil, petroleum products, anhydrous ammonia, and carbon dioxide). Both of these Acts have been recodified as 49 U.S.C. Chapter 601.

The Federal pipeline safety regulations (1) assure safety in design, construction, inspection, testing, operation, and maintenance of pipeline facilities and in the siting, construction, operation, and maintenance of LNG facilities; (2) set out parameters for administering the pipeline safety program; and (3) delineate requirements for onshore oil pipeline response plans. The regulations are written as minimum performance standards. The regulations are published in the Code of Federal Regulations, 49 CFR Parts 190-199

Oversight assumes that, to the extent any additional natural gas safety penalty monies would be collected, they would be placed in the State School Monies Fund, per §386.600, RSMo, and considered as Total State Revenue. Proceeds to the State School Moneys Fund are distributed to the local school districts, and may result in a deduction in the state General Revenue allocation to fund local school districts in the following year.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE			
<u>Savings</u> - Reduction in allocation to local school districts (§386.572)	\$0	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2009 (6 Mo.)	FY 2010	FY 2011
STATE SCHOOL MONEYS FUND			
<u>Revenue</u> - Public Service Commission - Penalties from violations of federally mandated natural gas safety standards (§386.572)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Savings</u> - Department of Elementary and Secondary Education - Reduced distribution of state aid to schools (§386.572)	\$0	\$0 to Unknown	\$0 to Unknown
<u>Transfer Out</u> - Distribution to school districts (§386.572)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Loss</u> - DESE - Reduced appropriation from General Revenue (§386.572)	\$0	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0 to Unknown</u>	<u>\$0</u>	<u>\$0</u>
ROAD FUND			
<u>Cost</u> - One Stop ticket (work order fee)	(\$138,500 to <u>\$275,000</u>)	(\$277,000 to <u>\$550,000</u>)	(\$277,000 to <u>\$550,000</u>)
ESTIMATED NET EFFECT ON ROAD FUND	<u>(\$138,500 to \$275,000)</u>	<u>(\$277,000 to \$550,000)</u>	<u>(\$277,000 to \$550,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
LOCAL POLITICAL SUBDIVISIONS			
<u>Income</u> - School Districts - Distribution of penalty income (§386.572)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Revenue</u> - Cities - Fees and surcharges for local enhanced 911 and applicable license taxes (§392.550.3)	Unknown	Unknown	Unknown
<u>Loss</u> - School Districts - Reduction in state aid (§386.572)	<u>\$0</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Small Business

Incumbent local exchange companies may see an increase in revenue due to the receipt of access charge revenue from Voice Over Internet providers as mandated by this proposal.

FISCAL DESCRIPTION

386.572 - Penalties for violating federal natural gas safety standards

This proposal creates penalties for corporations, persons, and public utilities that violate any law, order, decision, decree, rule, direction, demand, or requirement of the Missouri Public Service Commission relating to federally mandated natural gas safety standards. Municipalities that own gas plants are only liable for violations of natural gas safety laws, rules, and orders.

The maximum penalty per violation will be \$15,000, and the maximum penalty for multiple violations or a continuing violation of the same rule will be \$150,000; beginning January 1, 2015, the maximum penalties will be \$20,000 and \$200,000; beginning January 1, 2025, the maximum penalties will be \$25,000 and \$250,000; beginning January 1, 2035, the maximum penalties will be \$30,000 and \$300,000; and beginning January 1, 2040, the maximum penalties will be \$40,000 and \$400,000.

FISCAL DESCRIPTION (continued)

This proposed legislation also modifies provisions pertaining to Voice Over Internet Protocol Service and the Underground Facility Safety and Damage Prevention Act

Under current law, gas distribution lines, electric lines, telecommunications facilities, cable t.v. facilities, water lines, storm drainage, and sewer lines located on private property and owned by the landowner are not considered "underground facilities" for purposes of the Underground Facility Safety and Damage Prevention Act. This proposal modifies this definition by requiring that if any of the above-mentioned lines are used for vehicular traffic control, the lighting of streets and highways, or communications for emergency response, they shall be considered an "underground facility." The lines shall also be considered an "underground facility" if they cross or lie within a public easement, public right-of-way, or another person's property.

The proposed legislation requires that, as part of the process to request the locating of underground facilities, the notification center shall ask excavators to identify if the proposed excavation will be on public right-of-way or easement for public vehicular traffic use

The proposal allows design requests to be made through the notification center. Any such design request shall provide the same information as what is required for a notice of intent to excavate and the notification center shall treat a design request in a manner similar to a notice of intent to excavate. Underground facility owners who receive notification of a design request shall either mark the pipeline location or else contact the person making the design request within 5 working days of receiving the notification. Making a design request does not relieve any person from submitting a notice of intent to excavate to the notification center for the actual excavation work.

The proposal specifies that the current damage reporting requirements for excavators also apply to any damage caused by excavators to protective devices for underground facilities.

Owners or operators of underground facilities shall respond to a notice of an emergency within two hours of receiving such a notice. Excavators may be liable for costs associated with compliance by the owner or operator with this provision if the situation is not actually an emergency situation as defined.

The proposal repeals Section 319.036, RSMo, regarding exemptions to the excavation notification requirements for agricultural property.

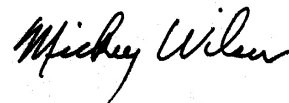
The provisions relating to the Underground Facility Safety and Damage Prevention Act have an effective date of January 1, 2009.

FISCAL DESCRIPTION (continued)

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 Transportation
Office of Secretary of State
 Administrative Rules Division
Department of Natural Resources
Office of State Courts Administrator
Office of Administration
 Division of Facilities Management, Design and Construction
 Administrative Hearing Commission
St Louis County
Kansas City



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