

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5011-04  
Bill No.: SCS for SB 653  
Subject: Cities, Towns and Villages; Courts; Political Subdivisions; Public Service  
 Commission; Telecommunications  
Type: Original  
Date: January 31, 2014

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Bill Summary: This proposal modifies provisions relating to municipal utility poles.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
 This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>(Unknown greater than \$100,000)</b>	<b>(Unknown greater than \$100,000)</b>	<b>(Unknown greater than \$100,000)</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Transportation**, the **Office of the Secretary of State**, the **Department of Natural Resources**, the **Administrative Hearing Commission**, the **Joint Committee on Administrative Rules**, the **Department of Economic Development - Public Service Commission** and the **Department of Economic Development - Office of the Public Counsel** each assume the current proposal would not fiscally impact their respective agencies.

Officials from the **Office of the State Courts Administrator (CTS)** would not anticipate a fiscal impact in excess of \$100,000.

**Oversight** assumes the CTS could absorb any costs arising from this proposal.

In response to a previous version of this proposal, officials from the **City of Kansas City** assumed there would be approximately ten pole attachment type disputes annually. This proposal would have the city resolve the dispute in court, as opposed to mediation, causing the city to incur costs. Litigation costs at least twice as much as mediation. At \$5,000 per dispute, the proposal would cost the city \$41,667 in 2015 and \$50,000 per year after that.

In response to a previous version of this proposal, officials from the **Metropolitan St. Louis Sewer District** assumed the proposal would not fiscally impact their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
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**LOCAL POLITICAL SUBDIVISIONS**

<u>Costs - Utility Pole Disputes</u>	<u>(Unknown</u>	<u>(Unknown</u>	<u>(Unknown</u>
<u>Litigation Fees</u>	<u>greater than</u>	<u>greater than</u>	<u>greater than</u>
	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>

<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>(Unknown</u></b>	<b><u>(Unknown</u></b>	<b><u>(Unknown</u></b>
	<b><u>greater than</u></b>	<b><u>greater than</u></b>	<b><u>greater than</u></b>
	<b><u>\$100,000)</u></b>	<b><u>\$100,000)</u></b>	<b><u>\$100,000)</u></b>

### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### FISCAL DESCRIPTION

This proposal modifies provision relating to municipal utility poles. This proposal technically corrects a paragraph cross-reference and technically corrects "permit" to "permits".

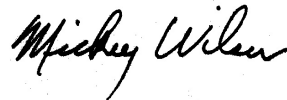
Currently, pole attachment means an attachment by a video service provider, a telecommunications or other communications-related service provider to a pole owned by a municipal utility, but not an attachment by a wireless communications provider to a pole. This proposal modifies the definition of pole attachment to include an attachment by any attaching entity to any pole owned by a municipal utility or municipality, and repeals the provision that an attachment by a wireless communications provider to a pole is not a pole attachment. This proposal allows a municipal utility or municipality to deny access to the utility's poles only if there is insufficient capacity, or safety and reliability concerns that the attaching entity cannot resolve. Nothing shall be construed to prohibit a municipal utility or municipality from requiring an attaching entity to enter into a pole attachment agreement.

Currently, any party can seek review of any fee, term, or condition by binding arbitration. This act repeals this provision and instead allows for dispute resolution by allowing either party to bring an action for expedited review in any court of competent jurisdiction. During the pendency of the dispute, the attaching entity may proceed with its attachments at a rental rate mutually agreed upon by the parties, or as calculated in accordance with the cable service rate formula. A municipal pole owner may be authorized to exceed the rate of return cost components of the cable service rate formula. The attaching entity is required to comply with applicable and reasonable engineering and safety standards, and shall not hold liable the municipality for damages caused by the attaching entity. This act extends these provisions to not supersede existing pole attachment agreements established prior to August 28, 2013, to August 28, 2014. This act shall not confer any authority to the Public Service Commission or any other governmental entity to regulate pole attachments.

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

Administrative Hearing Commission  
Office of the State Courts Administrator  
Department of Economic Development  
Public Service Commission  
Office of the Public Counsel  
Department of Transportation  
Joint Committee on Administrative Rules  
Office of the Secretary of State  
City of Kansas City  
Metropolitan St. Louis Sewer District



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January 31, 2014

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January 31, 2014