

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5011-05
Bill No.: Perfected SS for SCS for SB 653
Subject: Cities, Towns and Villages; Courts; Political Subdivisions; Public Service
 Commission; Telecommunications
Type: Original
Date: February 4, 2014

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

FISCAL SUMMARY

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

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

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 6 pages.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
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 2015	FY 2016	FY 2017
Local Government	(Unknown - could exceed \$100,000)	(Unknown - could exceed \$100,000)	(Unknown - could exceed \$100,000)

FISCAL ANALYSIS

ASSUMPTION

In response to a previous version of this proposal, officials from the **Department of Transportation**, the **Office of the Secretary of State** and the **Joint Committee on Administrative Rules** each assumed the 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.

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

Senate Amendment 1

Oversight assumes this amendment will not change the original fiscal impact.

Senate Amendment 2

Oversight assumes this amendment allows municipal utilities or municipalities to revoke a pole attachment permit and invoke a penalty.

<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
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> - Penalty for breach of pole attachment agreement	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> - Utility Pole Disputes Litigation Fees	<u>(Unknown greater than \$100,000)</u>	<u>(Unknown greater than \$100,000)</u>	<u>(Unknown greater than \$100,000)</u>
 ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	 <u>(Unknown - could exceed \$100,000)</u>	 <u>(Unknown - could exceed \$100,000)</u>	 <u>(Unknown - could exceed \$100,000)</u>

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.

FISCAL DESCRIPTION (continued)

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
Department of Natural Resources
Joint Committee on Administrative Rules
Office of the Secretary of State
City of Kansas City
Metropolitan St. Louis Sewer District

Mickey Wilson, CPA
Director
February 4, 2014

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A handwritten signature in black ink, appearing to read "Ross Strobe".

Ross Strobe
Assistant Director
February , 2014