

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5011-10
Bill No.: Truly Agreed To and Finally Passed HCS for SS for SCS for SB 653
Subject: Cities, Towns and Villages; Courts; Political Subdivisions; Public Service
 Commission; Telecommunications
Type: Original
Date: May 8, 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

Officials from the **Administrative Hearing Commission**, the **Department of Economic Development - Public Service Commission**, the **Department of Economic Development - Office of the Public Counsel**, the **Joint Committee on Administrative Rules**, the **Department of Transportation**, the **Office of the Secretary of State**, the **Department of Natural Resources**, the **Department of Public Safety - Missouri Highway Patrol** and the **Metropolitan St. Louis Sewer District** each assume the current proposal will 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.

Officials from the **City of Columbia** assume the current proposal would not fiscally impact their local government

In response to a previous version of this proposal, officials from the **City of Kansas City (KC)** assumed the increased policing of attachments would result in having to hire additional personnel. At \$50,000 per year, the real cost (with benefits, etc) would be \$75,000 per full year. At three people this cost would be \$225,000 per full year. KC assumes they would likely have costs associated with pole attachments, such as responding to citizen complaints, but those are hard to quantify. Approximately \$20,000 per full year according to KC. Also KC would likely have legal fees to determine the reasonableness of their actions, approximately \$50,000 per full year. The City assumes a cost of approximately \$295,000 annually.

<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 Policing and Handling	<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 municipality. This proposal defines a pole as a utility pole which is owned or controlled by a municipal utility or municipality. 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)

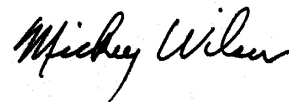
Currently, any party can seek review of any fee, term, or condition by binding arbitration. This proposal repeals this provision and instead allows for dispute resolution by allowing either party to bring an action for expedited review in any court of competent jurisdiction. During the pendency of the 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 under certain circumstances. 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 proposal extends these provisions to not supersede existing pole attachment agreements established prior to August 28, 2013, to August 28, 2014. This proposal shall not confer any authority to the Public Service Commission or any other governmental entity to regulate pole attachments.

This proposal allows a municipal utility or municipality to, after written notice, revoke a pole attachment permit with or without fee refund for the substantial breach of a pole attachment agreement or permit, until the breach is cured. A substantial breach is specified as set forth in this act. This proposal requires municipal utilities or municipalities to request the attaching entity to rearrange, relocate, or remove a pole attachment in the event of an imminent threat to public health, life, or safety, or absent action from the entity, have the authority to perform these actions.

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
Department of Public Safety - Missouri Highway Patrol
Office of the Secretary of State
City of Kansas City
Metropolitan St. Louis Sewer District
City of Columbia



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May 8, 2014

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May 8, 2014