

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1302-01
Bill No.: SB 273
Subject: Fees; Political Subdivisions; Department of Revenue
Type: Original
Date: February 26, 2019

Bill Summary: This proposal modifies provisions relating to video service providers.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	\$0	(\$905,332)	More than \$261,578
Total Estimated Net Effect on General Revenue	\$0	(\$905,332)	More than \$261,578

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Video Fee*	\$0	\$0	\$0
Rural Broadband	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Revenues and disbursements net to zero.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	0 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	0 FTE	2 FTE	2 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	\$0	\$0	More than (\$352,651)

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration Division of Budget and Planning (B&P)** assume §67.2689.1(2) states that on or after January 1, 2021, every video service provider and competitive video service provider shall pay a fee to the Department of Revenue not to exceed 3% of gross revenues.

Section 67.2689.1(4) states that DOR shall establish the rate of the fee to be charged to providers based on information requested from video service providers. The fee shall be paid annually to DOR on or after January 30th following the calendar year for which the fee is imposed. Fees shall be deposited in the Video Fee Fund, established in Section 67.2690.1. Moneys in this fund shall not be deemed state funds, deposited in the state treasury, commingled with any funds of the state, or subject to appropriation.

Section 67.2690.1(1) allows an amount not to exceed one percent of the moneys in the Video Fee Fund, to be transferred to General Revenue to cover the cost of collection. Fees collected in the amount of one hundred percent of the 2019 video service provider fee base shall be distributed among each franchise entity that imposed a video service provider fee on or before January 1, 2019. All remaining funds shall be transferred to the Rural Broadband Fund established by Section 67.2690.3. This fund shall be solely used to expand access to broadband internet.

The video service provider fee in Section 67.2689.1(2) will impact 18(e). Funds deposited to General Revenue and the Rural Broadband Fund will impact Total State Revenue.

B&P defers to DOR for an estimate of impact.

Officials at the **Department of Revenue (DOR)** assume §67.2689 states that, prior to January 1, 2021, a franchise entity may collect a video service provider fee equal to not more than five percent of the gross revenues from each video service provider providing video service in the geographic area of such franchise entity. The video service provider fee shall apply equally to all video service providers within the geographic area of a franchise entity.

This section states that on or after January 1, 2021, every video service provider and competitive video service provider shall pay a fee to be determined by the Department of Revenue pursuant to subdivision (4) of this section. Such fee shall not exceed three percent of the gross revenues from video service or competitive video service provider to subscribers in the state. The fee imposed by this subdivision shall apply equally to all such providers in the state and shall be in lieu of the fee imposed by subdivision (1) of this subsection or any other franchise fee as defined

ASSUMPTION (continued)

in 47 U.S.C. Section 542.

Section 67.2690 states that the fee imposed pursuant to subdivision (2) of subsection 1 of Section 67.2689 shall be collected and administered by the Department of Revenue. Collections shall be deposited into a special trust fund to be known as the "Video Fee Fund" to be used for the purposes set forth in subdivisions (1) and (3) of this subsection.

An amount equal to the actual costs of collection and administration of the fee imposed pursuant to subdivision (2) of subsection 1 of Section 67.2689 by the Department of Revenue, not to exceed one percent of the moneys in the video fee fund, shall be transferred to the state's General Revenue Fund.

An amount equal to one hundred percent of the 2019 video service provider fee base shall be allocated and distributed among each franchise entity that imposed a video service provider fee on or before January 1, 2019, and such moneys are funds received and disbursed by the state on behalf of the political subdivisions.

All remaining funds shall be transferred to the Rural Broadband Fund established in subsection 3 of this section to be used to fund the grant program established under Sections 620.2450 to 620.2458 to expand access to broadband internet service in unserved and underserved areas of the state.

The transfer of funds from the Video Fee Fund to the Rural Broadband Fund shall automatically sunset on August 28, 2029 unless reestablished by an act of the General Assembly.

There is hereby created in the state treasury a special trust fund to be known as the "Rural Broadband Fund" which shall consist of moneys transferred from the Video Fee Fund established under subsection 1 of this section.

Based on an article published by "Forbes," the estimated amount of cable TV revenues for 2018 is approximately \$23,500,200,000. If adjusted to the scale of Missouri using Missouri's buying power (1.64 percent), the Department estimates that what Missouri spends on cable TV equals \$385,403,280. Currently, such companies may impose a video service provider fee equal to five percent of the gross revenues from each video service provider providing video service. The Department, then, estimates that the current fee that could be collected from video service providers is equal to \$19,270,164 ($\$385,403,280 \times 5\%$).

ASSUMPTION (continued)

The Department is unaware of a published document reporting the total amount of Video Service Provider Fee collected. The fee is collected and retained by each political subdivision. Also, the current statute states that a franchise entity may impose such fee. This creates the notion that the amount estimated above could be significantly less.

Based on an article published by "CNBC," United States spends approximately \$2.1 billion a month on streaming services. The Department, then, estimates that annual amount the United States spends on streaming services equals \$25.2 billion ($\$2.1 \text{ billion} \times 12 \text{ months}$). If adjusted to the scale of Missouri using Missouri's buying power (1.64 percent), the Department estimates that Missouri spending on streaming services equals \$413,280,000 ($\$25.2 \text{ billion} \times 1.64\%$).

This proposed legislation states that a fee, not to exceed three percent of the gross revenues of video service providers and competitive video service providers shall be collected and paid to the Department. Therefore, the Department estimates that \$23,720,893 ($(\$385,403,280 \times 3\%) + (\$413,280,000 \times 3\%) - (\$23,960,498 \times 1\%)$) would be collected from such providers. This amount would be deposited into the "Video Fee Fund."

This legislation allows for, up to, one percent of the collection amount to be deposited into the General Revenue Fund for the cost of collection and administration \$239,605 ($\$23,960,498 \times 1\%$)

This legislation states that the amount equal to the amount of video service provider fee collected in 2019 (base year) shall be distributed back to each franchise entity that imposed a video service provider fee on or before January 1, 2019, in which such moneys shall be deposited to the general revenue fund of each franchise entity. As mentioned above, the Department estimates that this amount to be \$19,270,164. This amount must be subtracted from the "Video Fee Fund," leaving an amount equal to \$4,450,729 ($\$23,720,893 - \$19,270,164$).

The remaining amount, \$4,450,729, shall be transferred to the Rural Broadband Fund which is to be used to fund the grant program established under §620.2450 to §620.2458.

****Note** - the amount to be transferred from the Video Fee Fund and deposited into the Rural Broadband Fund is subject to increases or decrease, depending on how much is actually collected from the video service provider fee, which may be collected under current law, in the base year, 2019.

DOR's Business Tax Processing Section requires 2 Revenue Processing Technician I(s) (\$24,360 each) to administer the collection of the fee imposed and to complete the distribution(s) to the

ASSUMPTION (continued)

franchise entities. This would be a new fee for the Department to administer. Business Tax Processing Section requires new forms for the new fee.

The Integrated Revenue System requires a new program to track and distribute revenues back to the franchise entities, resulting in a cost of \$800,150.

Oversight will show DOR's FTE and computer costs in the fiscal note, starting in FY 2020.

Officials at the **Office of the State Treasurer** assume there is no fiscal impact from this proposal.

Officials at the **City of Kansas City** assume this legislation will have no fiscal impact on the City if the distribution of fees received by Kansas City after 2021 remains what it would have been without this legislation. If the amount transferred to Kansas City because of this legislation is less than what Kansas City would have otherwise received with its cable fee than the legislation will have a negative fiscal impact.

Officials at the **St. Francois County Assessor** state they have no information to determine impact.

Officials at **Monroe County** and the **City of Keytesville** each assume there is no fiscal impact from this proposal.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

ASSUMPTION (continued)

Oversight notes Section 67.2689 states the current video service provider fee shall be effective prior to January 1, 2021, not to exceed five percent of the gross revenues. New subdivisions under subsection 67.2689.1 creates a new fee - to be determined by the Department of Revenue, but not to exceed three percent. This new fee shall be calculated as follows:

Actual video service provider fees collected during the 2019 calendar year
gross revenues as reported by video service providers AND competitive video service providers

Oversight assumes, based on the numerator of this new rate of fee being the actual collections in 2019, that the resulting lower rate will result in no additional fee revenue collected, but simply the 2019 actual collection amount of fee revenue being spread over video service providers AND competitive video service providers. Oversight assumes, as the bill is written, that this fee collection amount will not increase or decrease in future years.

With this bill, the new fee revenue will now be collected by the state (into the new Video Fee Fund). Disbursements from the fund will be:

1. Actual cost of collections to the Department of Revenue - not to exceed 1%;
2. Amount equal to 100% of the 2019 video service provider fee base shall be allocated and distributed monthly among each imposed a video service provider fee on or before January 1, 2019; and
3. All remaining funds shall be transferred to the new Rural Broadband Fund to fund a grant program.

Therefore, if the Department of Revenue is now allowed to retain 1% of the fees collected, and the fees collected are to remain at the 2019 levels, this will result in political subdivisions having reduced collections by the one percent retained by DOR. Oversight assumes there would not be additional revenue to distribute to the new Rural Broadband Fund.

Oversight notes according to §67.2675, sections 67.2675 to 67.2714 shall be known and may be cited as the “2007 Video Services Providers Act.” Also, according to Section 67.2693, the Public Service Commission (PSC) shall no later than August 28, 2008, and annually thereafter for the next three years, issue a report regarding the act’s developments. Therefore, the last year of this report would have been in 2010. According to the PSC’s 2010 report A Report on Developments Resulting from the Implementation of the 2007 Video Services Providers Act, video service providers receiving state and locally-issued video authorization will pay nearly \$35,265,147 in franchise fees to political subdivisions during the time period from August 28, 2009 through August 27, 2010. Oversight has no data other than this regarding franchise fees paid directly to political subdivisions, so Oversight will utilize this.

ASSUMPTION (continued)

Oversight assumes the 2019 revenue will be greater than the 2010 revenue reported by the PSC; therefore, Oversight will reflect an estimate of “More than” the 2010 reported amount will now be paid into the new Video Fee Fund, and the Department of Revenue retaining 1% (\$352,651) for cost of collection.

Oversight notes that since the revenue, in effect, is capped at the 2019 fee amount, local political subdivisions will not experience growth in revenue from video franchise fees in years beyond 2019.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE			
<u>Transfer In</u> - DOR §67.2690.1(1) 1% fee to General Revenue to reimburse DOR's costs	\$0	\$0	More than \$352,651
<u>Cost</u> - DOR §67.2675 - 2RPT			
Personal Service	\$0	(\$49,207)	(\$49,699)
Fringe Benefits	\$0	(\$40,217)	(\$40,367)
Equip & Exp	<u>\$0</u>	<u>(\$15,758)</u>	<u>(\$1,007)</u>
<u>Total Cost</u> - DOR	\$0	(\$105,182)	(\$91,073)
FTE Change	0 FTE	2 FTE	2 FTE
<u>Cost</u> - DOR computer system updates	<u>\$0</u>	<u>(\$800,150)</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0</u>	<u>(\$905,332)</u>	<u>More than \$261,578</u>
Estimated Net FTE Change on General Revenue	0 FTE	2 FTE	2 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2020 (10 Mo.)	FY 2021	FY 2022
VIDEO FEE FUND			
<u>Revenue</u> - DOR §67.2689.1 (2) video service provider fee to be calculated by DOR - not to exceed 3%	\$0	\$0	More than \$35,265,147
<u>Transfer Out</u> - DOR §67.2690.1(1) 1% fee to General Revenue to reimburse DOR's costs	\$0	\$0	More than (\$352,651)
<u>Transfer Out</u> - DOR §67.2690.1(2) fees distributed to local political subdivisions	\$0	\$0	More than (\$34,912,496)
<u>Transfer Out</u> - DOR §67.2690.1(3) to Rural Broadband Fund excess video fee funding	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON THE VIDEO FEE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
RURAL BROADBAND FUND			
<u>Transfer In</u> - DOR §67.2690.1(3) excess video fee funding to be used for grants for rural broadband	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON THE RURAL BROADBAND FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOCAL POLITICAL SUBDIVISIONS			
<u>Transfer In</u> - from DOR §67.2690.1(2) fees distributed to local political subdivisions	<u>\$0</u>	<u>\$0</u>	<u>More than</u> <u>\$34,912,496</u>
<u>Loss</u> - Current Fee collections	<u>\$0</u>	<u>\$0</u>	<u>More than</u> <u>(\$35,265,147)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0</u>	<u>\$0</u>	<u>More than</u> <u>(\$352,651)</u>

FISCAL IMPACT - Small Business

Small businesses video providers may be impacted by this proposal.

FISCAL DESCRIPTION

This act modifies provisions relating to video service providers. The act adds definitions for "competitive video service", "competitive video service provider", and "video content" and modifies the definition of "gross revenues".

Prior to January 1, 2021, franchise entities may collect a video service provider fee from video service providers as set forth in the act. On and after January 1, 2021, every video service provider and competitive video service provider shall pay a fee to the Department of Revenue not to exceed 3% of gross revenues from video service or competitive video service provided to subscribers in the state.

The Department shall request certain information from video service providers and competitive video service providers to calculate and establish the rate of the fee to be charged to such providers, as set forth in the act. The fee shall be paid annually to the Department on or after January 30th following the calendar year for which the fee is imposed.

Fees shall be collected by the Department and deposited in the Video Fee Fund created by the act. Moneys in the fund shall not be deemed to be state funds, shall not be deposited in the state

FISCAL DESCRIPTION (continued)

treasury, and shall not be commingled with any funds of the state or subject to appropriation by the general assembly. The Department shall distribute moneys in the fund as follows:

- No more than 1% of the moneys in the fund shall be transferred to the state's General Revenue fund for the actual costs of collection and administration of the fee;
- 100% of the 2019 Video Service Provider Fee Base shall be allocated and distributed among each franchise entity that imposed a video service provider fee on or before January 1, 2019; and
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- All remaining funds shall be transferred to the Rural Broadband Fund established by the act to expand access to broadband internet service in unserved and underserved areas of the state.

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

Public Service Commission
City of Keytesville
City of Kansas City
Department of Revenue
Monroe County Assessor
Office of Administration Division of Budget and Planning
Office of the State Treasurer
St. Francois County Assessor



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