

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0767S.01I
Bill No.: SB 71
Subject: Utilities; Telecommunications; Energy; Commerce; Internet and E-Mail; Public Service Commission
Type: Original
Date: January 16, 2023

Bill Summary: This proposal authorizes electrical corporations to operate and use broadband services.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Commerce and Insurance**, the **Department of Natural Resources**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Office of Administration**, the **Office of the State Courts Administrator** the **City of Springfield** and the **City of Kansas City** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal from last year (SB 848), officials from the **Attorney General’s Office** assumed the proposal will have no fiscal impact on their organization.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in the MOLIS database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act creates provisions relating to broadband infrastructure.

BROADBAND INFRASTRUCTURE SERVICES (Sections 386.020, 393.1420, & 523.010)

The act creates the Electrical Corporation Broadband Authorization Act, which allows an electrical corporation to use its broadband infrastructure to provide certain broadband infrastructure services, as such terms are defined in the act.

The act modifies the definition of "electric plant" to include broadband infrastructure operated, controlled, owned, used or to be used for, or in connection with, or to facilitate the generation, transmission, or distribution of electricity or broadband infrastructure services. The act also creates several definitions relating to broadband.

As described in the act, an electrical corporation's investment in such broadband infrastructure shall be included in the electrical corporation's rate base used to set the revenue requirement upon which the electrical corporation's base rates are set.

The Public Service Commission shall not have jurisdiction over the terms, conditions, charges, contracts, leases, licenses, or other agreements of an electrical corporation for the corporation's broadband operations or provision of broadband services through a broadband services provider. Finally, the act allows an electrical corporation to condemn land for the purpose of broadband infrastructure services.

TRESPASS AND INVERSE CONDEMNATION ACTIONS (Section 393.1800)

Under this act, any cause of action for inverse condemnation or trespass against certain electric utilities as described in the act shall be commenced within two years after the cause of action shall have accrued, and no statute of limitations shall extend the period for commencing the action.

If the plaintiff prevails in a cause of action for inverse condemnation, then the damage or taking shall be deemed permanent, the injury to the plaintiff shall not be deemed to continue, accumulate, or to accrue, and the damages shall be fixed and determined as of the date the cause of action accrued.

In a cause of action for trespass, a defendant shall be entitled to a determination by the court as to whether the use by the defendant or its assignees, alleged by the plaintiff to be an expanded use that increases the burden of the defendant's easement or to exceed the scope of the defendant's easement rights, is a public use. If the court finds that such use is a public use, and if the plaintiff prevails on the claim for trespass, then certain provisions set forth in the act shall apply. Damages for prevailing claims of inverse condemnation or trespass are set forth in the act. Under the act, no cause of action for trespass or inverse condemnation may be brought as an action on behalf of a class.

In a cause of action for trespass or inverse condemnation, the following shall not be admissible in evidence for purposes of determining plaintiff's damages or any other purposes:

L.R. No. 0767S.011

Bill No. SB 71

Page 5 of 5

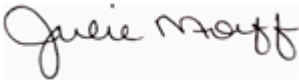
January 16, 2023

- Profits, fees, or revenue derived by the defendant from uses of the easement; and
- The rental value of the real property or of the easement, including the rental value of an assembled utility corridor of any type.

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

Attorney General's Office
Department of Commerce and Insurance
Department of Natural Resources
Missouri Department of Conservation
Missouri Department of Transportation
Office of Administration
Office of the State Courts Administrator
Kansas City
City of Springfield



Julie Morff
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January 16, 2023



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