

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

LR No.: 1518-04  
Bill No.: SCS for SB 369  
Subject: Political Subdivisions: Utilities, Right-of-way  
Type: Original  
Date: March 20, 2001

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<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 LOCAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government*</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(\$Unknown)</b>

\* Fiscal impact is estimated to exceed \$1,000,000 annually.

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials of the **Department of Economic Development-Public Service Commission, and Office of Public Counsel**, stated there would be no fiscal impact to their department.

Officials of the **Missouri Department of Transportation** stated they are not included in the definition of “political subdivision”, therefore, this proposal would not apply to their department.

Officials of the **Missouri Department of Conservation** stated this proposal would not have fiscal impact on MDC funds.

Officials of the **Office of Administration- Division of Design and Construction** stated their would be no fiscal impact to their division.

Officials of the **Department of Natural Resources** stated that their department manages the state park system and are responsible for maintaining certain roads within the state park system. Depending upon the definition/intent of the term public right-of-way, the department may be fiscally impacted.

Officials of the **City of Kansas City** stated this proposal places new requirements and procedures on municipalities. Officials stated there would be arbitration cost of \$5,000 per incident. Officials estimate if 1% of the permit applications would be taken to mandatory binding arbitration, 10 arbitrations per 1000 permits, the cost would be about \$50,000 annually. There would be an increase in overtime cost to comply with the 15 day permit approval deadline. Officials assume that the City would lose revenue from their recently enacted street degradation fee. If utilities do not repair the street curb to curb they must pay a degradation fee. Officials estimate lost revenue at \$1,000,000 to \$1,500,000 annually. Officials stated that this substitute allows a franchise, when required by state or federal law, however, it is unclear that any franchise by a local government is ever required, they are always permitted. Officials assume that there could be cost associated with this lack of clarity.

Officials of the **City of St. Louis** stated that the major impact would be the termination of current franchise fees in 2004. Officials stated this proposal would deprive the City of fees assessed to maintain and repair hundreds of miles of streets. Fiscal impact is unknown,

ASSUMPTION (continued)

Officials stated there would be a loss of income from franchise tax revenues from cable operators of approximately \$1.45 million annually, and there would be an annual loss of income of approximately \$13.3 million from Incumbent Local Exchange Carriers and Competitive Local Exchange Carriers. Officials stated the City would lose in-kind services, which, have an estimated annual value of \$891,666. Officials stated that with the addition of an emergency clause, the City could incur significant additional expense by being forced to bring in outside consultants to conduct new and un-budgeted studies to determine costs of issuing permits. Other communities in other states have indicated that these types of studies can cost as much as \$150,000 or more depending on the size of the city and the number of streets. Officials stated that these costs are estimates and the actual fiscal impact is unknown.

Officials of the **City of Springfield** assume this proposal would have fiscal impact to City funds. Officials stated they would lose utility franchise fee payments as no franchise would be allowed to require rental for rights-of-way use over and above the right-of-way permit fee as defined by this proposal. City Officials estimate the loss of revenue from franchise fees at \$19.4 million in 2002, \$20 million in 2003, and \$22 million in 2004. Officials assume the actual loss of revenues of in-kind services, and other requirements is unknown. Officials also stated they would have new costs from arbitration and litigation expenses, street and sidewalk repairs, delays in work, etc. are estimated to cost the City as much as \$12.1 million in 2002; \$12.3 million in 2003; and \$12.4 million in 2004.

Officials of the **City of Rolla** assumes that as franchise agreements expire there would be a loss of \$200,000 annually.

Officials of **University City** assume the city would have increased cost due to right-of-way damages. Officials estimate increase cost at approximately \$200,000 in FY 2002; \$250,000 in FY 2003; and \$500,000 in FY 2004. Officials also stated there would be a loss of revenue from the right-of-way use tax. Officials estimate the loss of income in FY 2002 at \$1,000,000; in 2003 at \$1,500,000; and \$2,000,000 in FY 2004.

**Oversight will show loss of revenue to local government, and increased cost of street maintenance, etc. as (unknown). Oversight assumes fiscal impact to local governments on a statewide basis would exceed \$1,000,000 annually.**

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	\$0	\$0	\$0

	FY 2002 (10 Mo.)	FY 2003	FY 2004
<u>FISCAL IMPACT - Local Government</u>			
<b><u>Income</u></b> to Cities from permit fees	Unknown	Unknown	Unknown
<b><u>Loss of income</u></b> to Cities from Franchise Fees	(Unknown)	(Unknown)	(Unknown)
<b><u>Cost</u></b> to Cities from Arbitration fees, street repairs etc.	(Unknown)	(Unknown)	(Unknown)
<b>Estimated Net Effect to Local Government*</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

**\* Oversight assumes that, on a statewide basis, the fiscal impact to local governments would exceed \$1,000,000 annually. Income from permit fees is not expected to offset costs or loss of income, therefore, Net Effect is shown as (Unknown).**

FISCAL IMPACT - Small Business

Small business in the excavation business would be expected to pay a permit fee when excavating on municipal rights-of-way.

DESCRIPTION

This act allows political subdivisions to require permits for public utility right-of-way use. A political subdivision has the right to manage its public rights-of-way and recover the management costs from the public utility which may pass the cost on to the consumer. Public utility right-of-way users are required to restore the right-of-way and surrounding areas after excavation.

A political subdivision may refuse to grant or may revoke a permit under certain circumstances. Appeal procedures are provided for a refusal or revocation of a permit.

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

Department of Economic Development- Public Service Commission  
Office of Public Counsel  
Department of Natural Resources  
Missouri Department of Transportation  
Missouri Department of Conservation  
Office of Administration- Division of Design and Construction  
City of Kansas City  
City of St.Louis  
City of Springfield  
City of Rolla  
University City



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March 20, 2001