

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

LR No.: 1518-05
Bill No.: Perfected SS for SCS for SB 369
Subject: Political Subdivisions: Utilities, Right-of-way
Type: Original
Date: April 24, 2001

FISCAL SUMMARY

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

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

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

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

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Department of Economic Development-Public Service Commission**, 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 is 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. **Springfield officials stated that their local school district would lose approximately \$1.5 million in services and an access channel free each year. Southwest Missouri State University will lose its in-kind services bargained for by the city as a part of the franchise.**

Officials of the **Office of the Director of Administration of St. Louis County** stated that this proposal would deprive the county of revenues for all three years in the millions, due to the bill's prohibition on franchises, which is the means by which rent is collected for the use of the public's right-of-way. St. Louis County currently receives franchise fees totaling more than 2.5 million dollars per year from public utility right-of-way users. Officials identified the following fiscal impact.

- 1.) Loss of revenue from franchise fees will need to be replaced with tax revenue, or there will be a reduction of governmental services.
- 2.) Replacement of in-kind services which are currently included in the County's franchise with DTI, a telecommunications company, and the County's cable franchise.
- 3.) Personnel costs due to staff time involved in administrative appeals of denials or revocations of permits.
- 4.) Costs of mandatory arbitration, including County's attorney fees and internal costs, and required payments of external costs of arbitration.

ASSUMPTION (continued)

- 5.) Costs of litigation over the meaning of such terms as “unreasonable requirement for entry”, “unlawfully discriminate,” “grant a preference”, and whether costs are “substantiated”, or properly “allocated”.

Officials concluded that they expect losses, for each fiscal year, to be in excess of 1 million dollars.

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

*** 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
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
St. Louis County



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