HCS SS SCS SB 284 -- VIDEO SERVICE REGULATIONS

SPONSOR: Griesheimer (Dempsey)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Utilities by a vote of 11 to 0.

This substitute changes the laws regarding new video franchise agreements. In its main provisions, the substitute:

(1) Requires the Missouri Public Service Commission to regulate video service by issuing video service certificates that grant authority to construct networks and provide service within political subdivisions. Currently, political subdivisions enter into separate franchise agreements with the video service providers;

(2) Allows existing video service providers to provide service under existing agreements with political subdivisions until the agreements expire, apply for a new video service authorization, or convert their existing franchise into a video service authorization. The holder of a video service authorization may terminate the authorization or transfer it to another party upon notice to the commission;

(3) Allows political subdivisions to collect a service fee of up to 5% of the gross revenue of each video service provider, but the fees for all video service providers in the franchise area must be the same. Political subdivisions may adjust fees yearly by providing 90 days' notice to providers. A schedule for the payment of fees is specified and providers are allowed to charge customers for the tax if it is itemized on the customer's bill;

(4) Allows political subdivisions to conduct audits of video service providers and engage in mediation with providers in order to resolve customer disputes. Procedures for audits, mediation, and court challenges are specified;

(5) Requires the commission to make a report on the implementation of the provisions of the substitute which includes customer input to the General Assembly by August 28, 2008, and annually thereafter for three years;

(6) Specifies detailed requirements that allow political subdivisions to require a provider to offer noncommercial public, educational, and government (PEG) channels. New and existing providers will be required to meet the same criteria for providing PEG channels. Existing providers must fulfill their obligations to PEG channels until their existing contract expires or January 1, 2012, whichever is earlier;

(7) Requires new providers to serve low-income households in their franchise areas by establishing a target of 25% service to low-income homes within three years and 30% service within five years. AT&T will have to meet the 25% target in three years and a 50% target within six years. The commission may waive these low-income service requirements in certain cases; and

(8) Allows political subdivisions to retain reasonable regulation of their public right-of-ways and the placement of video service equipment.

The substitute contains an emergency clause.

FISCAL NOTE: No impact on state funds in FY 2008, FY 2009, and FY 2010.

PROPONENTS: Supporters say that the bill is a carefully crafted compromise that will benefit Missouri customers by lowering video service costs throughout the state. Competition will ensure that the quality of service is high. Cities will be allowed to charge the maximum taxes allowed by federal law and will gain additional advertising moneys and fees from new customers. The bill should also result in additional video service coverage and increase investments in Missouri by $400 million. The legislation should include a nonseverability clause so that a level playing field is guaranteed.

Testifying for the bill were Senator Griesheimer; Missouri Cable Television Association and Charter Communications; AT&T; Missouri Coalition for Fair Competition; St. Louis Regional Commerce and Growth Association; Windstream Communications; CenturyTel; Missouri Telecommunications Industry Association; Embarq; Missouri Chamber of Commerce and Industry; Multistate Associates on behalf of DirectTV Group; Associated Industries of Missouri; and Joseph Haslag.

OPPONENTS: Those who oppose the bill say that it could result in the loss of PEG channels and funding for public and educational television. Municipalities should retain local control over cable franchise agreements. It would also be useful for municipalities to spend a portion of their tax revenue on PEG channels.

Testifying against the bill were Representative Flook; Jim Dunn; Ken Robinson; Ann Bertoldie; Elizabeth Federici and Christine Gardener, Columbia Access Television; Vince Spiro; Beverly Hacker, Alliance for Community Media; Steven Smith, KDHY Community Media; St. Louis County Municipal League; AARP; Beth Pike; and Joan Sapp.

OTHERS: Others testifying on the bill say that it may face constitutional challenges under the contract and retroactivity clauses of the Missouri Constitution and the Article III, Section 39(5) prohibition on relinquishment of debts owed to political subdivisions without compensation. It does protect the police powers of political subdivisions to regulate their public right-of-ways. There needs more customer protection measures such as bond and insurance requirements. The bill will raise the cost of educational television.

Testifying on the bill were Missouri Municipal League; Susan Littlefield, Missouri Chapter of the National Association of Telecommunications Officers and Advisors; and Dennis Riggs.