

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1110H.01I
Bill No.: HB 386
Subject: Utilities; Internet and E-Mail; Property, Real and Personal; Political Subdivisions
Type: Original
Date: March 30, 2021

Bill Summary: This proposal would establish the Task Force on the Future of Right-of-Way Management and Taxation and modifies the law regarding video service providers.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2029)
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2029)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2029)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2029)
Total Estimated Net Effect on FTE	0	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 2022	FY 2023	FY 2024	Fully Implemented (FY 2029)
Local Government	\$0	\$0	Could exceed (\$2,203,376)	Could exceed (\$11,016,881)

FISCAL ANALYSIS

ASSUMPTION

Section 67.2677 – Video Service Providers - Definitions

Oversight notes this section modifies the definition of “Gross Revenues” so that amounts received by video service providers from advertisers for: rental of set top boxes and other video service equipment, service charges, administrative charges, and a pro rata portion of all revenue derived for advertising are no longer included within a video service provider’s gross revenues.

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this section changes the definition of “gross revenue.” The gross revenues are limited to amounts billed to video service subscribers for recurring charges to video services or to event-based charges for video service. Gross revenues will no longer include in the total: rental of set top boxes, modems or other equipment used to provide video services; service charges related to the provision of video services; administrative charges related to the provision of services; and a pro rata portion of all revenues derived from advertising.

Section 67.2689 – Video Service Provider Fee

Oversight notes this section modifies the calculation of the video service provider fee.

Current law states a franchise entity, which is a political subdivision that was entitled to franchises and imposed fees on cable operators on the date before the effective date of Section(s) 67.2675 to 67.2714, may collect a video service provider fee equal to not more than five percent (5%) of the gross revenues from each video service provider that provides video service within the geographic area of such franchise entity.

This section modifies the fee in such that a franchise entity may collect a service provider fee not to exceed the following percentages of the gross revenues charged to each customer of a video service provider that is providing video service in the geographic area of such franchise entity:

- Before August 28, 2023, five percent of such gross revenues;
- Beginning August 28, 2023, four and one-half percent of such gross revenues;
- Beginning August 28, 2024, four percent of such gross revenues;
- Beginning August 28, 2025, three and one-half percent of such gross revenues;
- Beginning August 28, 2026, three percent of such gross revenues;
- Beginning August 28, 2027, two and one-half percent of such gross revenues.

Oversight notes, per information received from the Missouri Municipal League during the interim, of responding municipalities, municipalities collected \$20,451,246 in cable/franchise/video service provider fee(s) in 2016.

Oversight notes, per information received from responding municipalities during the interim, municipalities collected \$22,311,372 in video service provider fee(s) in 2018 and \$22,033,761 in video service provider fee(s) in 2019.

Using the amount reported for 2019, Oversight estimates the total gross receipts reported by video service providers totaled \$440,675,220 (\$22,033,761 / 5%).

Using the estimated total gross receipts reported in 2019, Oversight estimates local revenues could decrease each fiscal year by an amount in excess of (accounting for the municipalities who did not respond **and** the modification(s) to the definition of “Gross Receipts”):

Fiscal Year	Video Service Provider Fee (%)	Loss to Local Municipalities
2024	4.5%	(\$2,203,376)
2025	4%	(\$4,406,752)
2026	3.5%	(\$6,610,128)
2027	3%	(\$8,813,504)
2028	2.5%	(\$11,016,881)
2029	2.5%	(\$11,016,881)

For purposes of this fiscal note, **Oversight** will report the loss to local political subdivisions equal to an amount that “Could exceed” the amount(s) reported above. The “Could exceed” is the result of municipalities that did not respond to Oversight’s inquiry during the interim as well as the changes made to the definition of “Gross Receipts” which reduces the applicable items that are to be included in a video service provider’s gross receipts.

Officials from **B&P** state this section changes the amount a franchise entity may collect. Before August 28, 2023, the gross revenues cannot exceed five percent (5%) of the gross revenues of a video service provider providing services in the geographic area. This amount decreases half of a percent (0.5%) per year. Beginning August 28, 2023, the gross revenues cannot exceed four and half percent (4.5%) of gross revenues. Beginning August 28, 2024, the gross revenues cannot exceed four percent (4%) of gross revenues. Beginning August 28, 2025, the gross revenues cannot exceed three and half percent (3.5%) of gross revenues. Beginning August 28, 2026, the gross revenues cannot exceed three percent (3%) of gross revenues. Finally, beginning August 28, 2027, the gross revenues cannot exceed two and half percent (2.5%) of gross revenues.

Officials from the **City of Ballwin (Ballwin)** anticipate a reduction of franchise fee(s) equal to: \$0 in Fiscal Year 2022, \$12,100 in Fiscal Year 2023, \$48,400 in Fiscal Year 2024, \$84,700 in Fiscal Year 2025, \$121,000 in Fiscal Year 2026 and \$157,300 in Fiscal Year 2027.

Officials from the **City of Kansas City (Kansas City)** state this proposed legislation provides for a video franchise fee rollback of 0.5% each year for five (5) years beginning in August 2023. The video franchise fee would be capped at 2.5% in 2027. Kansas City anticipates this proposed legislation will result in a negative fiscal impact.

Officials from the **City of Springfield (Springfield)** anticipate this proposed legislation will result in a negative fiscal impact of \$550,000 per year due to the reduction of franchise video revenues.

Officials from the **City of St. Louis (St. Louis)** state the phased reduction in franchise fees currently paid by cable operators and video service providers will have a negative impact on St. Louis. Furthermore, the reduction in the specific calculation(s) used to calculate the reduced franchise fee will have a negative impact on St. Louis.

St. Louis assumes any reduction in the percentage St. Louis is allowed to collect will reduce annual revenues. In Fiscal Year 2020, St. Louis collected \$2,557,294 in revenue from gross revenues of approximately \$51,145,880.

St. Louis anticipates the loss per year would be:

Date	Loss to St. Louis Revenues
Beginning 08/28/2023	(\$255,730)
Beginning 08/28/2024	(\$511,459)
Beginning 08/28/2025	(\$767,188)
Beginning 08/28/2026	(\$1,022,918)
Beginning 08/28/2027	(\$1,278,647)

Section 67.2720 – Task Force on the Future of Right-Of-Way Management and Taxation

Oversight notes this section establishes the Task Force on the Future of Right-Of-Way Management and Taxation.

The task force shall study best methods for right-of-way management, taxation of video service providers, and the future revenue needs of municipalities and political subdivisions as such revenue relates to video services.

The task force must compile and submit a report of its activities to the General Assembly no later than December 31, 2023 which shall include any recommendations which the task force may have for legislative action(s).

This section shall expire on December 31, 2023.

Officials from **B&P** state this section establishes the “Task Force of the Future Right-Of-Way Management and Taxation.” This taskforce sunsets on December 31, 2023.

Officials from the **Missouri Department of Transportation (MoDOT)** state, in its current form, this section could result in an unknown negative fiscal impact to the State Road Fund. Additionally, Art. IV § 30(b) of the Missouri Constitution grants the Missouri Highways and Transportation Commission discretion to plan, locate, relocate, establish, acquire, construct and maintain highways, bridges, and tunnels.

MoDOT assumes the task force considered in this legislation could delay important decision-making in the roadbuilding process, leading to declined infrastructure and public safety.

MoDOT assumes the changes put forth could result in an increase in litigation over ownership and control of the Missouri Highways and Transportation Commission’s right of way. The Missouri Highways and Transportation Commission is afforded ownership and control over its right of way; the future recommendations of the task force created could hinder the abilities of this structure.

Officials from the **Missouri Senate (Senate)** state this proposed legislation could result in a negative fiscal impact to the Joint Contingent appropriation. Reimbursement for six (6) legislators to attend meetings of the Task Force will cost approximately \$583 per meeting.

For purposes of this fiscal note, **Oversight** assumes the expenses of the Joint Contingent Appropriation would be minimal and not material enough to include in this fiscal note.

For purposes of this fiscal note, Oversight will not report a fiscal impact as it relates to this section.

Legislation as a Whole

The **City of Hale** anticipate this proposed legislation will result in a fiscal impact.

Officials from **B&P** state this proposed legislation has no impact on state revenues. To the extent this impacts local revenues, this proposal could impact the calculation pursuant to Article X, Section 18(e). B&P does not have data to calculate the impact at the local level.

Officials from the **Missouri Department of Revenue**, the **Missouri Department of Commerce and Insurance**, the **City of Claycomo**, and the **Missouri House of Representatives** do not anticipate this proposed legislation will result in a fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

<u>FISCAL</u> <u>IMPACT – State</u> <u>Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2029)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL</u> <u>IMPACT – Local</u> <u>Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2029)
<u>Revenue</u> <u>Reduction –</u> Section(s) 67.2677 & 67.2689 – Modifications Of Definition Of “Gross Receipts” And Reduction In Percentage Used To Calculate Video Service Provider Fee(s)	<u>\$0</u>	<u>\$0</u>	<u>Could exceed</u> <u>(\$2,203,376)</u>	<u>Could exceed</u> <u>(\$11,016,881)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0</u>	<u>\$0</u>	<u>Could exceed</u> <u>(\$2,203,376)</u>	<u>Could exceed</u> <u>(\$11,016,881)</u>

FISCAL IMPACT – Small Business

This proposed legislation could impact any small business operating as a video service provider as such small business would collect and remit less fee(s) over a period of years. Oversight assumes, since the fee(s) are typically passed on to the customer, the video service providers would not recognize a change in revenue(s).

FISCAL DESCRIPTION

This bill modifies the definition of "gross revenues" as it applies to video service provider fees and modifies the video service provider fee that a franchise entity may collect from each customer. Currently, a franchise entity may collect a fee of 5% of gross revenues. Beginning August 28, 2023, the fee would be 4.5% of gross revenues. The fee would reduce of by half of one percent of gross revenues each year until it reaches a limit of 2.5% beginning August 28, 2027. The video service provider must also identify and collect the fee and other specified fees as separate line items on a customer's bill.

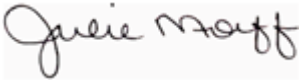
The bill also establishes the "Task Force on the Future of Right-of-Way Management and Taxation", which consists of 16 members, including three members of the House of Representatives and three members of the Senate, and eight additional members appointed by the Speaker of the House of Representatives or the President Pro Tem of the Senate to represent interested organizations as specified in the bill.

The Task Force will hold its first meeting within 30 days of its creation and study the best methods of right-of-way management, taxation of video services, and the future revenue needs of municipalities and political subdivisions as it relates to video services. Members serve without compensation but will be reimbursed for actual and necessary expenses while attending meetings of the task force. The Task Force must submit a report with recommendations to the General Assembly before December 31, 2023 and terminates at that time.

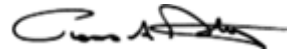
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Budget & Planning Division
Missouri Department of Commerce and Insurance
Missouri Department of Revenue
Missouri Department of Transportation
Missouri House of Representatives
Missouri Senate
City of Ballwin
City of Claycomo
City of Hale
City of Kansas City
City of Springfield
City of St. Louis



Julie Morff
Director
March 30, 2021



Ross Strobe
Assistant Director
March 30, 2021