

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1193-10  
Bill No.: Truly Agreed To and Finally Passed SS for SCS for HCS for HB 345  
Subject: Public Service Commission; Telecommunications  
Type: Original  
Date: June 3, 2013

---

Bill Summary: This proposal modifies provisions relating to telecommunications.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
<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 FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
Local Government	<b>\$0 or (Could exceed \$200,000)</b>	<b>\$0 or (Could exceed \$200,000)</b>	<b>\$0 or (Could exceed \$200,000)</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §§ 67.5102, 67.5103, 67.5104 - Deployment of wireless communications infrastructure

Officials from the **Office of Administration - Division of Facilities Management, Design and Construction (OA-FMDC)** assume this proposal could affect any agency of the State of Missouri that can own/hold property in its own name, including state colleges and universities. Political subdivisions defined in §67.5092(5) of Truly Agreed and Finally Passed Senate Substitute for HB 331 could be similarly affected.

It is impossible to quantify the dollars on the loss of revenue due to the decreased property values and or lost sales proceeds from sales of state property yet to be authorized by future conveyance legislation.

The value of state property could be detrimentally affected if the State is required to place communications towers on state owned property. OA-FMDC could have substantial loss of revenue and could incur additional costs if compelled to locate wireless communications infrastructure on state property pursuant to §67.5102 of the bill.

**Oversight** assumes any fiscal impact is speculative and, based on responses from other potentially affected agencies, will assign no direct fiscal impact.

Officials from the **City of Columbia** estimated a cost of at least \$100,000 due to potential limits on lease revenue and unrecoverable regulatory costs associated with this bill. Although there has been some moderation in language, but it's hard to accurately assess how these transactions will work. Provisions with fiscal impact potential are listed below. They may have cumulative effects.

§67.5102 - Potential, subsidized limits on lease payments, unless parties agree otherwise - if they don't agree, there is the cost of appraisal.

§67.5104 - Establishes pole attachment rate as the FCC cable rate, which is lower than other formulas - in case of damage to utility poles, the rate might not let us recover all our replacement costs.

In response to similar language in Perfected Senate Substitute for Senate Committee Substitute for SB 241 officials from **St. Charles County** assumed they could incur losses for actual costs exceeding the fee limitation in the bill for issuing permits for wireless support structures.

ASSUMPTION (continued)

Officials from the **Administrative Hearing Commission, Department of Economic Development - Public Service Commission and Office of Public Counsel, Department of Natural Resources, Department of Conservation,** and the **Metropolitan St. Louis Sewer District** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Transportation** did not respond to a request for fiscal impact.

A request for fiscal impact was sent to numerous other **Cities and Counties**, none of which responded.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
---	---------------------	---------	---------

**LOCAL POLITICAL SUBDIVISIONS**

<u>Revenue Loss</u> - Lease payments (\$67.5102)	\$0 or (Could exceed \$100,000)	\$0 or (Could exceed \$100,000)	\$0 or (Could exceed \$100,000)
---	---------------------------------------	---------------------------------------	---------------------------------------

<u>Costs</u> - Replacement costs (\$67.5104)	\$0 or (Could exceed \$100,000)	\$0 or (Could exceed \$100,000)	\$0 or (Could exceed \$100,000)
--	---------------------------------------	---------------------------------------	---------------------------------------

<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b>\$0 or (Could exceed <u>\$200,000</u>)</b>	<b>\$0 or (Could exceed <u>\$200,000</u>)</b>	<b>\$0 or (Could exceed <u>\$200,000</u>)</b>
---	---	---	---

FISCAL IMPACT - Small Business

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

## FISCAL DESCRIPTION

This bill changes the laws regarding telecommunications practices and municipal pole attachments.

### §67.5102 - Telecommunications practices

This section prohibits an authority from charging a wireless service provider or wireless infrastructure provider any rental, license, or other fee to locate a wireless support structure on an authority's property in excess of the current market rates for rental or use of similarly situated property. An authority may not offer a lease or contract to use public lands to locate a wireless support structure on an authority's property that is less than 15 years in duration. A process for the resolution of any disputes over fair market value lease payments using appraisers appointed by both parties is also specified in the bill.

### §67.5103 - Eminent Domain

This section prohibits applicants for wireless facility permits from having the power of eminent domain or the right to compel any private or public property owner, the Department of Conservation, the State Highways and Transportation Commission within the Department of Transportation, or the Department of Natural Resources to lease or sell property or locate wireless facilities on existing structures.

### §67.5104 - Municipal Pole Attachments

The bill requires municipal pole owners to set fees for pole attachments, not including wireless antennas or wireless attachments, that is just and reasonable. The rental fee will be considered just and reasonable if it is agreed on by the parties or is not more than the fee calculated based on the federal cable rate formula. Existing agreements prior to August 28, 2013, will be enforced. Voluntary arbitration is allowed and if parties cannot agree on a single arbitrator, then arbitration will be conducted by the American Arbitration Association. The fee may exceed the cable rate formula allowed if certain findings are made, or if necessary to comply with Article X of the Missouri Constitution. Attachments will be allowed to proceed while arbitration is pending. These provisions do not confer jurisdiction on the Missouri Public Service Commission.

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  
Administrative Hearing Commission  
Office of Administration  
    Division of Facilities Management, Design and Construction  
Department of Natural Resources  
Department of Conservation  
Metropolitan St. Louis Sewer District  
City of Columbia  
St. Charles County

Not Responding:

Department of Transportation  
Numerous Cities and Counties



Ross Strope  
Acting Director  
June 3, 2013