

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5011-03  
Bill No.: SB 653  
Subject: Courts; Political Subdivisions; Public Service Commission; Telecommunications  
Type: Original  
Date: January 23, 2014

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Bill Summary: This proposal modifies provisions relating to municipal utility poles.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<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 2015</b>	<b>FY 2016</b>	<b>FY 2017</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 2015</b>	<b>FY 2016</b>	<b>FY 2017</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 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>(Unknown greater than \$100,000)</b>	<b>(Unknown greater than \$100,000)</b>	<b>(Unknown greater than \$100,000)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Transportation**, the **Administrative Hearing Commission**, the **Joint Committee on Administrative Rules**, the **Department of Economic Development - Public Service Commission** and the **Department of Economic Development - Office of the Public Counsel** each assume the current proposal would not fiscally impact their respective agencies.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Office of the State Courts Administrator (CTS)** would not anticipate a fiscal impact in excess of \$100,000.

**Oversight** assumes the CTS could absorb any costs arising from this proposal.

Officials from the **City of Kansas City** assume there would be approximately ten pole attachment type disputes annually. This proposal would have the city resolve the dispute in court, as opposed to mediation, causing the city to incur costs. Litigation costs at least twice as much as mediation. At \$5,000 per dispute, the proposal would cost the city \$41,667 in 2015 and \$50,000 per year after that.

Officials from the **Metropolitan St. Louis Sewer District** assume the current proposal would not fiscally impact their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2015	 FY 2016	 FY 2017
	(10 Mo.)		
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Costs - Utility Pole Disputes</u>	<u>(Unknown</u>	<u>(Unknown</u>	<u>(Unknown</u>
Litigation Fees	<u>greater than</u>	<u>greater than</u>	<u>greater than</u>
	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>
 <b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	 <b><u>(Unknown</u></b>	 <b><u>(Unknown</u></b>	 <b><u>(Unknown</u></b>
	<b><u>greater than</u></b>	<b><u>greater than</u></b>	<b><u>greater than</u></b>
	<b><u>\$100,000)</u></b>	<b><u>\$100,000)</u></b>	<b><u>\$100,000)</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 proposal revises the term "pole attachment" as it applies to the Uniform Wireless Communications Infrastructure Deployment Act to mean an attachment by an attaching entity, including a video service provider, a telecommunications provider, or other communications-related service provider to a pole owned or controlled by a municipal utility or municipality. Currently, the term means an attachment by a video service provider or a telecommunications or other communications-related service provider to a pole owned by a municipal utility but not a wireless antenna attachment or an attachment by a wireless communications provider to a pole. A municipal utility or municipality may only deny an attaching entity access to the utility's poles on a nondiscriminatory basis only if there is insufficient capacity or for reasons of safety and reliability and if the attaching entity will not resolve the issue.

In the event of a dispute between the parties, either party may also bring an action for review in any court of competent jurisdiction. Currently, either party may seek review by a single arbitrator mutually agreeable to the parties or, in the absence of an agreement, by means of binding arbitration conducted by the American Arbitration Association. Nothing can deny any party the right to a hearing before the court.

The attaching entity may proceed with its attachments during the pendency of the dispute at a rental rate of not more than the current established rate. The attaching entity must comply with applicable and reasonable engineering and safety standards and hold the municipal pole owner or controlling authority of the municipality harmless for any liabilities or damages incurred that are caused by the attaching entity.

These provisions cannot supersede existing pole attachment agreements established prior to the effective date of the proposal.

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

Administrative Hearing Commission  
Office of the State Courts Administrator  
Department of Economic Development  
Public Service Commission  
Office of the Public Counsel  
Department of Transportation  
Joint Committee on Administrative Rules  
Office of the Secretary of State  
City of Kansas City  
Metropolitan St. Louis Sewer District



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January 23, 2014

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January 23, 2014