

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 29, 2005

TO: Honorable Phil King, Chair, House Committee on Regulated Industries

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB3179 by King, Phil (relating to the promotion of fair competition and intermodal parity among communications service providers, including municipal and state authority with regard to providers.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would require the Secretary of State to issue a certificate of franchise authority to offer cable or video service. It is anticipated that any costs associated with this responsibility could be absorbed within the agency's existing resources.

Local Government Impact

The bill would authorize a cable service provider, beginning September 1, 2005, to terminate any municipal franchise existing on the date the provisions of the bill take effect. The provider would be required to remit to the municipality any accrued but unpaid franchise fees due under the terminated agreement. The provider would be allowed to deduct the amount of remaining credit from any future fees or taxes it must pay to the municipality. A provider electing to terminate an existing municipal franchise or initiating service after September 1, 2005, would be required to pay each municipality in which it provides service a fee equal to 5 percent of the provider's gross revenues.

The bill would provide limited authority for a municipality to regulate activities of a cable or video provider. Except as otherwise provided in the proposed new statute for when a municipality may charge a fee, a municipality would be prohibited from requiring any monetary compensation, nonmonetary compensation, facilities, value, in-kind support, free service, or other thing of value for the right or privilege of a cable provider or video service provider to provide service or to occupy or use a public right-of-way. A municipally owned utility would not be allowed to charge a pole attachment rate or underground conduit rate that exceeds the fee the utility would be permitted to charge under rules of the Federal Communications Commission, unless the utility charges a single, uniform pole attachment fee to all attaching entities not owned by the municipality.

If a municipality were to require a cable or video provider to relocate its facilities, in certain circumstances, the municipality would be responsible for relocation costs.

As indicated, a municipality would experience a combination of revenue gains and losses and some new costs as a result of implementing provisions of the bill. The fiscal impact would vary by municipality, depending on whether a franchise agreement currently exists, whether a provider would terminate the agreement, the differences between the agreement and the provisions of the bill, and anticipated infrastructure plans by the municipality that may affect its interactions with a cable or video provider, especially related to location of the provider's facilities.

Based on information provided by the Texas Municipal League (TML), the overall fiscal impact would be negative. Estimates provided to TML from the cities of Dallas, Houston, Fort Worth, Austin, Arlington, Plano, and Denison indicate those cities would experience a significant revenue loss. Dallas estimates the loss at over \$2 million annually; Houston estimates losing more than \$1.8 million annually; Fort Worth estimates an annual loss of \$1 million; Austin's estimate is nearly \$1.2

million and Arlington's estimate is a one-time revenue loss of \$1.2 million, followed by an annual loss of \$30,000. The cities also estimated significant losses in "value of lost services."

Source Agencies: 307 Secretary of State, 357 Office of Rural Community Affairs, 473 Public Utility Commission of Texas

LBB Staff: JOB, JRO, RB, DLBa