LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION
Revision 1

May 19, 2005

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

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

IN RE: **SB408** by Nelson (Relating to the continuation, administration, and operations of the Public Utility Commission of Texas.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB408, Committee Report 2nd House, Substituted: a negative impact of ($2,714,724) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	($1,357,362)
2007	($1,357,362)
2008	($1,357,362)
2009	($1,357,362)
2010	($1,357,362)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *GENERAL REVENUE FUND* 1	Change in Number of State Employees from FY 2005
2006	($1,357,362)	23.0
2007	($1,357,362)	23.0
2008	($1,357,362)	23.0
2009	($1,357,362)	23.0
2010	($1,357,362)	23.0

Fiscal Analysis

The bill would continue the Public Utility Commission (PUC) until September 1, 2011.

The bill would increase the size of the PUC from three to five members and increase the agency's maximum administrative penalty from $5,000 to $10,000 per incident per day.

The bill would require the Public Utility Commission to assume certain regulatory authority over cable and video providers.

The bill would take effect September 1, 2005.

Methodology

The Public Utility Commission (PUC) would require funding for two additional Commissioner positions ($218,400 each year for salaries), two Executive Assistant I positions ($88,000 each year for salaries) and two Program Specialist VI positions ($133,000 each year for salaries) to work with the new Commissioners, and $130,678 each year for employee benefits and $20,000 each year for operating expenses associated with the new positions.

The PUC would require funding for 17 additional positions related to its new regulatory authority over cable and video providers. Included in this amount are four Information Specialist I positions ($110,160 each year for salaries), six Investigator II positions ($165,240 each year for salaries), three Attorney III positions ($126,648 each year for salaries), one Network Specialist II position ($35,100 each year for salaries), two Program Specialist IV positions ($79,416 each year for salaries), one-half Legal Assistant IV position ($17,550 each year for salaries), and one-half Judge I position ($23,910 each year for salaries) required for rulemakings, contested cases, enforcement actions, certification requirements, and reporting requirements associated with this new regulatory function. The agency would also require $165,956 each year for employee benefits and $43,304 each year for operating expenses associated with the new positions.

It is anticipated that increasing the PUC's maximum administrative penalty would have a positive fiscal impact, but that it would vary greatly from year to year and the fiscal impact would not be significant.

The PUC indicates that any other costs associated with the bill could be absorbed within its 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 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: 116 Sunset Advisory Commission, 473 Public Utility Commission of Texas

LBB Staff: JOB, SD, JRO, MW, RB, DLBa