

KANSAS OFFICE of
REVISOR of STATUTES

LEGISLATURE of THE STATE of KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: House Committee on Energy, Utilities and Telecommunications

From: Office of Revisor of Statutes

Date: March 12, 2020

RE: Senate Bill 380 – As Amended by Senate Committee

SB 380 would amend K.S.A. 12-2022 and 12-2023 of the Video Competition Act to prevent municipalities from enacting certain requirements on video service providers for the deployment of micro wireless facilities in the public right-of-way. Under current law, the Video Competition Act allows an entity seeking to provide cable service or video service in Kansas to file an application for a state-issued video service authorization with the Kansas Corporation Commission which permits a video service provider to gain access to the public right-of-way to provide video service in Kansas. The Act also puts limitations on the requirements that municipalities may impose on the holder of a state-issued video service authorization.

Section 1 would add the following new definitions to the Video Competition Act:

- "Micro wireless facility" means equipment at a fixed location that is: (1) Installed on cables that are owned and operated by a video service provider between utility poles; (2) used to provide communications service; and (3) not larger in dimension than 24 inches in length, 15 inches in width and 12 inches in height and does not have any associated exterior antenna longer than 11½ inches.
- "Communications service" means information service¹ or telecommunications service² as defined in 47 U.S.C. § 153.

Section 2 of the bill would amend K.S.A. 12-2023 to prohibit a municipality from requiring the holder of a state-issued video service authorization to make an application or pay any fee, license, tax or rent for the installation, placement, maintenance, operation or replacement of a micro wireless facility. Except as provided in such prohibition, SB 380 would

¹ 47 U.S.C. § 153: "Information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

² 47 U.S.C. § 153: "Telecommunications service" means the offering of the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

KANSAS OFFICE of
REVISOR of STATUTES

LEGISLATURE of THE STATE of KANSAS

not prohibit a municipality from assessing fees or rates or enforcing any regulations pursuant to the wireless siting act in K.S.A. 66-2019 on a video service provider. Additionally, a municipality would be prohibited from imposing any additional authorization or license for the provision of communications service over the holder's network.

Under SB 380, a municipality would maintain its authorization to require the holder of a state-issued video service authorization to pay the video service provider fee pursuant to K.S.A. 12-2024 and any applicable federal or state taxes. SB 380 would also authorize a municipality to require a holder to comply with the national electrical safety code and all industry recognized engineering safety standards.

SB 380 provides that nothing in the act would be construed to prohibit the owner of a utility pole from setting the rates, fees, terms and conditions of any pole attachment agreement with a video service provider.

SB 380 would take effect upon publication in the statute book.