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MEMORANDUM

To: Senate Committee on Federal and State Affairs
From: Office of Revisor of Statutes
Date: March 14, 2022
Subject: Senate Bill 547 – Bill Brief

Senate Bill 547 would amend the state's video competition act in K.S.A. 12-2021 et seq., to exempt broadcast satellite service and providers of streaming content from the video competition act. Generally, by exempting such providers from the act, such providers would no longer be required to obtain a state issued video service authorization certificate from the Kansas Corporation Commission to provide video service in the state and would no longer be subject to the franchise fee requirements under the act.

SB 547 would also establish additional criteria relating to municipal audits of video service providers relating to calculation of the video service provider fee. SB 547 would provide that once a period is subject to an audit, such period of time shall not be subject to any subsequent audit. Additionally, the bill would provide that a municipality may petition a court when any dispute arises regarding the fees and that such petition must be filed within three years following the last quarter in which such fees are in dispute. Should the court find that the provider underpaid such fees by 10% or more during any 12-month period, the court would have authority to require the provider to reimburse the municipality for any unpaid fees but would be prohibited from imposing any late payment penalty upon the provider.

Brief Overview of the Video Competition Act

The video competition act is codified in K.S.A. 12-2021 to 12-2027 and requires entities that are seeking to provide cable or video service in the state to file an application with the Kansas Corporation Commission for a state issued video service authorization certificate. Such certificate gives a cable or video service provider authority to provide video services in any city or county within the service area footprint set out in the application.

Definitions for the act are found in K.S.A. 12-2022. The following definitions are used to define video service providers who are subject to the act:

- "Competitive video service provider" means an entity providing video service that is not franchised as a cable operator in the state of Kansas as of the effective date of this act and is not an affiliate, successor or assign of such cable operator.
- "Video service" means video programming services provided through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d).

The video competition act imposes certain requirements for video service providers including, but not limited to: Providing video service within five years to all households in the service area footprint, complying with city and county public right-of-way regulations, and alerting customers to public safety emergencies through the emergency broadcast system.

The video competition act governs the powers that cities and counties have over video service providers. Cities and counties are authorized to impose certain customer service standards and to collect a video service provider fee at an amount set by the video competition act. Additionally, cities and counties can require a video service provider to provide no more than two public, educational and governmental access channels. On the other hand, cities and counties are prohibited from requiring a separate municipal franchise to provide video service within the municipality and from imposing other fees or regulating the rates of a video service providers.