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LEGISLATURE of THE STATE of KANSAS  
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**MEMORANDUM**

To: Chairman Masterson and Members of Committee on Utilities  
From: Office of Revisor of Statutes  
Date: February 12, 2020  
RE: Senate Bill 380

SB 380 would amend K.S.A. 12-2022 and 12-2023 of the Video Competition Act to prevent municipalities from enacting additional 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 a wireless facility that is strung on cables between existing utility poles as defined in K.S.A. 66-2019<sup>1</sup>, and amendments thereto, in compliance with the national electrical safety code and that is not larger in dimension than 24 inches in length, 15 inches in width, 12 inches in height and any associated exterior antenna is not longer than 11 inches.
- "Wireless facility" means equipment at a fixed location that is used to provide wireless services.
- "Wireless services" means the same as prescribed in K.S.A. 66-2019<sup>2</sup>, and amendments thereto, and communications service through the use of licensed or unlicensed spectrum, including wi-fi.

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<sup>1</sup> KSA 66-2019: "Utility pole" means a structure owned or operated by a public utility as defined in K.S.A. 66-104, and amendments thereto, a municipality as defined in K.S.A. 75-6102, and amendments thereto, or an electric cooperative as defined in K.S.A. 2019 Supp. 17-4652, and amendments thereto, that is designed specifically for and used to carry lines, cables or wires for telecommunications, cable, electricity or to provide lighting.

<sup>2</sup> KSA 66-2019: "Wireless services" means "personal wireless services" and "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities or any fixed or mobile wireless services provided using wireless facilities.

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- "Communications service" means information service<sup>3</sup> or telecommunications service<sup>4</sup> as defined in 47 U.S.C. § 153, cable service or video service.

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. The bill would also prohibit a municipality from regulating the provision of wireless services provided through a holder's micro wireless facilities in the right-of-way.

A municipality would also be prohibited from requiring such holder, or the holder's affiliate, to obtain any authorization or pay any fee, license or tax for the provision of wireless services. However, the bill would not change the requirement for a holder of a state-issued video service authorization to pay a municipality the video service provider fee pursuant to K.S.A. 12-2024.

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<sup>3</sup> 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.

<sup>4</sup> 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.