

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2237

As Amended by House Committee on Energy,
Utilities and Telecommunications

Brief*

HB 2237, as amended, would define the term “municipality” as it relates to law pertaining to video services providers operating in the public right of way to mean a city or county, and make conforming changes throughout statute by replacing the terms city and subdivision with “municipality.” The bill would also establish provisions for municipalities to impose any requirements in a nondiscriminatory and competitively neutral manner with regard to public right of way access, assessment, or fees. Further, the bill would clarify a municipality or provider may enjoin a court if necessary, and make other technical changes.

Definitions

The bill would define “municipality” to mean any city or county.

Neutrality and Nondiscriminatory provisions

The bill would require a municipality to apply permitting and right-of-way access requirements in nondiscriminatory and competitively neutral manner.

Further, any taxation, fees, or exclusive franchise fees would also be required to be applied using a cost-based, nondiscriminatory, and competitively neutral manner.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Technical Changes

The bill would make several technical changes including clarifying that provisions in law are not permissive, conforming changes to reference the term municipality, and stating municipalities or providers may enjoin a court for enforcement action.

Background

The bill introduced by the House Committee on Energy, Utilities and Telecommunications at the request of a representative of Ideatek on January 31, 2023.

House Committee on Energy, Utilities and Telecommunications

During the House Committee hearing, representatives of Ideatek and AT&T provided **proponent** testimony, stating that the bill would address inconsistencies in county permitting costs, which results in delays and obstacles to rural broadband roll-out.

Neutral testimony was provided by a representative of Cox Communications, offering multiple amendments to the bill.

No other testimony was provided.

House Committee Amendments

The House Committee adopted an amendment to:

- Add language that would state that any municipality entering into an agreement, franchise, or any other arrangements with any provider seeking access to the right-of-way shall make the

provisions of the agreement available to other providers seeking to access the right-of-way in a manner that is non-discriminatory and competitively neutral;

- Add language that would mandate that a municipality assess in a cost-based, nondiscriminatory and competitively neutral manner, any taxation or fees imposed on any provider excluding franchise fees; and
- Add language that would state a provider or municipality may bring an enforcement action in any court of competent jurisdiction.

Fiscal Information

According to the fiscal note prepared by the Division of Budget on the bill, as introduced, the Kansas Department of Transportation indicates that the bill would have no fiscal effect. According to the Kansas Association of Counties, enactment of the bill could create additional costs for counties if such use of the public right-of-way impedes on county operations or forces the delay of other projects. The League of Kansas Municipalities indicates that the bill could increase local government revenues from franchise fees.

Public right-of-way; municipality; telecommunications services; video service provider; provider