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BILL ANALYSIS

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House Bill 6456 (Substitute S-2 as reported)
Sponsor: Representative Mike Nofs
House Committee: Energy and Technology
First Senate Committee: Technology and Energy
Second Senate Committee: Government Operations

CONTENT

The bill would create the "Uniform Video Services Local Franchise Act" to do the following:

-- Prohibit a person from providing video services in any local unit of government without first obtaining a uniform video service local franchise, except as otherwise provided.
-- Provide that a uniform video service local franchise would be in effect for 10 years.
-- Prohibit a franchising entity from requiring a video service provider to obtain a separate franchise or otherwise imposing any fee or franchise requirement except as provided under the proposed Act.
-- Require the Public Service Commission (PSC), within 30 days after the bill took effect, to establish the standardized form for the uniform video service local franchise agreement.
-- Specify that any provisions of a franchise agreement existing on the bill's effective date that were inconsistent with or in addition to the provisions of the uniform agreement would be unreasonable and unenforceable.
-- Require a video service provider to pay to the franchising entity (the local unit of government) an annual video service provider fee, as well as an annual fee for the cost of public, education, and government access facilities.
-- Allow a video service provider to claim a credit toward the video service provider fee for its payments to the franchising entity under the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act.
-- Require each video service provider to pay an assessment equal to the PSC's expenses required by the Act, not to exceed $1.0 million, until January 1, 2010.
-- Require a video service provider to provide for the same number of public, education, and government access channels that were in use on the incumbent video provider's system on the bill's effective date.
-- Require a provider to give subscribers access to the signals of the local broadcast television station.
-- Prohibit a franchising entity from enforcing any term, condition, or requirement of any franchise agreement that was more burdensome than the terms, conditions, or requirements contained in another franchise agreement.
-- Require a franchising entity to allow a video service provider nondiscriminatory and competitively neutral access to a public right-of-way.
-- Provide that a video service provider would not be subject to any civil or criminal liability for any program.
-- Prohibit a video service provider from denying access to service to any group of potential residential subscribers due to race or income.
-- Require each video service provider to establish a dispute resolution process for its customers.

-- Require the PSC to submit to the Legislature by June 1, 2007, a proposed process that would allow the Commission to resolve disputes that could not be resolved under the provider's process, and disputes between a provider and a franchising entity or between providers.
-- Require the PSC to file an annual report on the status of competition for video services in Michigan.
-- Prescribe administrative penalties for a violation.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would increase the administrative responsibilities for the Public Service Commission by requiring the Commission to create a uniform video service local franchise agreement; requiring the establishment of a dispute resolution process for disputes not resolved through the provider process; and requiring an annual report on the status of competition in the State. The bill would establish an assessment on video service providers to generate revenue for the Commission sufficient to cover the costs of regulation, but not to exceed $1.0 million. The authority to levy the assessment would expire December 31, 2009.

The bill would allow the PSC to impose fines for any violation of the proposed Act by a provider. Since the bill would not dedicate that revenue, those fines would be deposited into the General Fund. The amount of revenue that would be generated would depend on the number and severity of the fines imposed.

The bill would have an indeterminate effect on local unit revenue and expenditures. The actual amount of the impact on local units would depend on a number of factors that differ between local units. In local units where the franchise fee is below the level established in the bill (or nonexistent), the bill would increase revenue. In local units where the fee is higher than the level set in the bill, the bill would reduce revenue when the fee changed. Similarly, fees paid as support for the capital cost of public, education, and government access would have an indeterminate effect, depending on the fees under the bill relative to current fees.

Revenue to local units also would be affected by the interaction of credits allowed under the bill, particularly maintenance fees paid for use of public rights-of-way. To the extent that the allowed credit of five cents per linear foot of public rights-of-way exceeded the gross revenue per linear foot, the credit could eliminate any revenue the local unit might receive under the bill's franchise fee. The credit also would effectively eliminate the cost to providers of any right-of-way fees paid by providers, unless those fees exceeded the franchise fee imposed under the bill - in which case the local unit would receive no franchise fee income from the provider.

To the extent that the bill would limit the requirements local units may impose as part of franchise agreements, the bill could increase local unit expenditures to maintain or replace property or services available under current franchise agreements, if the bill excluded such property or services from the agreements.

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