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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Commerce, Utilities, and Rail (SC-CUR)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

AMENDMENT 1

Don't Abrogate Existing Franchise Agreements

>At line 12 on page 13, insert the following text after "that" and strike the remaining text through the end of line 14:

continues to provide cable service under a cable franchise until the conditions specified in sub. (3)(b) are met.

>At line 16 on page 15, delete the "." and insert:

if the incumbent cable operator is subject to local competition as defined in par. (b)2.a. and makes the election specified in par. (b)2.a.

>At line 18 on page 15, insert the following text after "service" and strike the remaining text through the end of line 19:

under a cable franchise until subject to local competition. For the purposes of this subdivision, "local competition" means that the franchise area, as defined in the cable franchise, is served by at least two unaffiliated video service providers, each of which offers comparable video programming to at least 15 percent of the households in the franchise area.

>Delete lines 11 to 18 on page 19, and replace with the following text:

(4) FRANCHISING AUTHORITY. For purposes of 47 USC 521 to 573, the state is the exclusive franchising authority for video service providers that are not subject to an existing or expired cable franchise issued by a municipality in this state, except that a municipality shall be the franchising authority for an incumbent cable operator operating within the municipality until such cable operator is subject to local competition as defined in sub. (3)(b)2.a. and makes the election specified in sub. (3)(b)2.a. Notwithstanding s. 66.0425, no municipality may require a video service provider with a franchise issued by the department to obtain a municipal franchise to provide video service or impose on a video service provider any requirement to deploy facilities or equipment or any requirement regarding rates for video service, except as specifically authorized under this section.

>At line 21 on page 15, insert the following text before the “,”:

as specified under par. (b)2.a.

AMENDMENT 2

Expand Definition of “Gross Receipts” for Purposes of Calculating Franchise Fee

>Delete page 11, line 13 to page 12, line 25 and insert:

(j)1. “Gross receipts” means all revenue derived by the video service provider from the operation of its video service network specifically to provide video service, whether such revenue is received by the video service provider, its affiliates, or by any other entity that is an operator of the network directly or indirectly, including, by way of illustration and not limitation,

a. Amounts charged for basic service, optional premium, per-channel, per-program services, and, to the extent applicable, television-like programming services, audio services, channel guide subscriptions, installation, disconnection, re-connection and changes-in-service; equipment rentals, leased channel fees; late fees and administrative charges of any type; and consideration received from programmers.

b. A pro rata portion of all revenue generated by the video service provider’s network pursuant to compensation arrangements for advertising derived from the operation of the provider’s network to provide video service within the municipality. The allocation shall be based on the number of subscribers in the municipality divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement. The provision of video service to customers at no charge, however, including the provision of video service to public institutions without charge, is not derived revenue unless bundled with other services for which a charge is collected.

2. Notwithstanding subd. 1., “gross receipts” does not include any of the following:

a. Bad debt except to the extent that bad debts are recovered.

b. The revenue of any person including, without limitation, a supplier of programming to the video service provider to the extent that such revenue is also included in the gross revenue of the video service provider, its affiliates, or its parent company.

c. Pass-through payments received by video service provider from third-party programmers to purchase services from entities other than the provider itself, which services benefit only the third party programmers and for which the provider neither received nor provides any consideration.

d. Any taxes on services furnished by the video service provider imposed directly on any subscriber or user by the state, the municipality or other governmental unit and which are collected by the provider on behalf of such government unit. The video service provider fee provided in sub. (7) is not such a tax.

e. Refunds, rebates, credits or discounts to subscribers or the municipality to the extent not already offset and to the extent such refund, rebate, credit, or discount is attributable to video service.

f. Any revenues received by the video service provider or its affiliates from the provision of services or capabilities other than video programming services, including telecommunications services, information services, and services, capabilities, and applications that may be sold as part of a package or bundle, or functionally integrated, with video services.

g. Any revenues received by the video service provider or its affiliates for the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, including advertising on any provider program guide, and electronic publishing.

h. Reimbursement by programmers of marketing costs actually incurred by the video service provider for the marketing of programming.

i. Any revenues received by the video service provider for maintenance charges or sales of capital assets or equipment.

>At lines 11 to 12 on page 11, delete “, and includes any compensation required under s. 66.0425”.

AMENDMENT 3

Clarify Rights-of-Way Authority and Other Police Powers

>Delete lines 12 to 16 on page 26.

>Insert following line 17 on page 30:

(14) **AUTHORITY OVER RIGHTS-OF-WAY.** Nothing in this shall be construed to change existing law regarding the authority of municipalities to regulate the use of local rights-of-way by video service providers, including the right to charge right-of-way permit fees and to require bonds to secure performance of any reasonable conditions specified by the municipality for work performed in the right-of-way.

AMENDMENT 4

Maintain PEG Financial Support Requirements

>At page 22, delete subparagraph 5(c)1. and renumber the subparagraphs that follow.

>Insert following line 23 on page 23:

(e) *PEG Fee.* 1. Except as provided in subd. 2., a video service provider with a franchise granted by the department shall, on a quarterly calendar basis, pay to each municipality in which the video service provider provides video service a PEG fee equal to the amount specified in subd. 2. A video service provider shall remit the fee to the municipality at the same time as the video service provider fee specified in sub. (7).

2. A municipality shall, by ordinance, require a video service provider with a franchise granted by the department to pay to the municipality a PEG fee equal to the greater of:

i. one percent of the video service provider's annual gross receipts (as such term is defined in sub. (2)(j)); or

ii. a fee equivalent to the value, on a per subscriber basis, assessed monthly, of all monetary grants or in kind services or facilities for PEG channels provided annually by the incumbent cable operator with the most subscribers in the municipality, pursuant to that incumbent's cable franchise in effect on the effective date of this subdivision . . . [revisor inserts date].

3. The municipality may require the incumbent cable operator to provide to the municipality information sufficient to calculate the per subscriber equivalent fee allowed under this subd. 2.ii.. Such information shall be entitled to treatment as confidential and proprietary business information.

AMENDMENT 5

Maintain Local Control over PEG Channel Capacity and Programming

>At line 3 on page 20, delete the words "Except as provided in subd. 2. b. and c., if" and replace with "If".

>Delete lines 13 to 24 on page 20.

>At line 2 on page 21 after "tier" insert the following text and delete the remaining text through the end of line 4:

that includes the retransmission of local television broadcast signals. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the same tier and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator unless prohibited by federal law. Each PEG channel shall be capable of carrying a National Television System Committee (NTSC) television signal when the video service provider is technically able to do so.

>Delete line 14 on page 21 through line 2 on page 22, and insert:

(b) *Additional PEG Channels.* 1. The video service provider shall provide an additional PEG channel when the nonduplicated video programming televised on a given channel exceeds 56 hours per week as measured on a quarterly basis. The additional channel shall not be used for anything other than PEG programming.

>At lines 4 to 5 on page 22, delete “interim cable operator or”.

>At the end of line 2 on page 14, insert:

The term “noncommercial” does not include advertising, underwriting or sponsorship recognition for the purpose of funding PEG-related activities.

AMENDMENT 6

Continue Carriage of PEG Programming from Source to Headend or Video Hub

>At line 14 on page 22, after “shall be” insert the following and delete the remaining text through line 16:

the responsibility of the municipality or its designee receiving the benefit of that capacity, and the video service provider shall bear only the responsibility for the transmission of that content appearing on the PEG channel.

>Delete line 20 on page 22 through line 2 on page 23, and replace with:

a. Ensure that all transmissions, content and programming to be transmitted by the interim cable operator or video service provider are provided or submitted in a manner or form that is compatible with the network utilized by the interim cable operator or video service provider to deliver video service, if the local entity produces or maintains the PEG programming in that manner or form. If the local entity does not produce or maintain PEG programming in that manner or form, then the local entity may submit or provide PEG programming in a manner or form that is standard in the industry. The video service provider or interim cable provider shall be responsible for any changes in the form of the transmission necessary to make it compatible with the technology or protocol utilized by the provider to deliver services.

>At line 10 on page 23 after “provide”, insert the following and delete the remaining text through line 13:

, at its expense, the transmission line necessary to connect the interim cable operator’s or video service provider’s video service network to all distribution points used by the municipality to transmit programming for the PEG channel.

AMENDMENT 7

Provide Free Connections to Schools and Government Buildings

>Delete line 24 on page 23 through line 3 on page 24 and insert:

(6) PUBLIC USE CONNECTIONS AND INSTITUTIONAL NETWORKS. (a) *Public use connections.* Each video service provider holding a franchise issued by the department shall offer free basic service (or its equivalent) to and shall, without charge, install one activated outlet with standard installation video service at each accredited primary and secondary school building, each municipal building, and each public library building in its video franchise area. This obligation will apply to any such video service provider when its video service is available on the section of its video service network that passes the school, municipal, or public library building. So that duplicative installations are not provided, each the video service provider shall negotiate with any other video service provider currently providing free outlets and service to determine who will provide video service to which school, municipal, or public library building. If the providers cannot reach agreement as to who will provide free outlets and video service to which buildings, the local governing body or its designee shall confer with the providers and determine the assignments in a reasonable manner.

(b) *Institutional networks.* Notwithstanding any franchise, ordinance, or resolution in effect on the effective date of this subsection . . . [revisor inserts date], no state agency or municipality may require a video service provider holding a franchise issued by the department to provide any institutional network or equivalent capacity on its video service network.



RESOLUTION NO. 07-28

**RESOLUTION REGARDING PROPOSED STATE OF WISCONSIN 2007 ASSEMBLY BILL 207
AND 2007 SENATE BILL 107 RELATING TO REGULATION OF CABLE TELEVISION AND
VIDEO SERVICE PROVIDERS**

WHEREAS, communication infrastructure is essential to the economic competitiveness of the State of Wisconsin and its local governments; and

WHEREAS, the Common Council of the City of New Berlin is committed to working with State legislators to ensure that communication policies benefit consumers; and

WHEREAS, local governments are the trustees of public property and, thus, must manage and maintain public property, including rights of way, for the benefit and safety of the community; and

WHEREAS, local governments are in the best position to effectively respond to a wide variety of consumer concerns, including complaints related to service quality, affordability, reliability, deceptive practices and billing practices; and

WHEREAS, public education and public access programming serves an essential public interest in promoting free speech and open government; and

WHEREAS, State Assembly Bill 207 and State Senate Bill 107 remove local control of video service franchising, effectively eliminate local regulation of public rights of way, and substantially impair consumer protections which the citizens of this state have come to expect; and

WHEREAS, proposed State Assembly Bill 207 and Senate Bill 107 includes public education and government channel take back rules which effectively eliminate the presence of local government such as the City of New Berlin and the New Berlin School District on cable television; and

WHEREAS, the proposed legislation increases the burden on local taxpayers by lowering the total amount of collectable franchise fees through a more restricted definition of gross video service receipts; and

WHEREAS, contrary to State Assembly Bill 207 and Senate Bill 107, the State of Illinois has enacted a statewide video and cable franchise statute which establishes extensive consumer protections and meaningful penalties for breaching those standards, requires all providers to offer a free service line and free basic service to all current and future local government buildings, requires local telecommunications video service providers to provide broadband internet access to 90% of the households in their service area, establishes meaningful restrictions on video and cable franchise providers use of local rights of way, permits municipalities to charge cost based right-of-way permit fees, requires incumbent cable operators to continue to serve whole communities and prohibits video providers from pulling out of an area if it would leave the area without landline video service and mandates that public education and government stations continue to receive the amount of financial support required under the existing local franchise agreement and also permits local governments to require all video providers to pay a dedicated public education and government fee and requires providers to meet broadcast quality standards with respect to public education and government channels.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of New Berlin strongly recommends that the proposed video franchising legislation be amended consistent with the State of Illinois video franchising legislation to maintain local regulation and control of video service so as to protect video service consumers in this state.

BE IT FURTHER RESOLVED that the Common Council of the City of New Berlin specifically requests that the legislature preserve municipal authority over public rights of way and permit local governments to recover their reasonable costs for the administration of those rights of way from video service providers; and

BE IT FURTHER RESOLVED that the Common Council of the City of New Berlin requests that the legislature retain public education and government channels in their present form as they are an important communication tool to share community information and to ensure accountable local government.

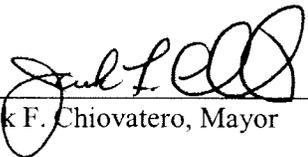
BE IT FURTHER RESOLVED that the Common Council of the City of New Berlin fully endorses and recommends that the legislature adopt amendments to the video franchise legislation to incorporate the provisions of the State of Illinois legislation on this subject.

BE IT FURTHER RESOLVED that the Common Council of the City of New Berlin urges the legislature of the State of Wisconsin to recognize that meaningful competition cannot exist when the residents of this state are deprived of meaningful consumer protection, meaningful public education and government access channel availability and meaningful control over their rights of way.

BE IT FURTHER RESOLVED that the City Clerk is directed to provide a copy of this Resolution to Senator Lazich, Representative Gundrum, Senator Plale, Representative Montgomery, Governor Doyle and the news media.

Passed and adopted by the Common Council this 23 day of October 2007.

APPROVED:



Jack F. Chiovatero, Mayor

Certified:



Marilyn Gauger, City Clerk





Oak Creek

OFFICE OF THE CITY CLERK

I hereby certify that the attached is a true and correct copy of Resolution No. 10752-050107, passed and adopted by the Common Council at their regular meeting held May 1, 2007.

Jennifer K. Burnett

City Clerk



RESOLUTION NO. 10752-050107

BY: COMMITTEE OF THE WHOLE

A RESOLUTION REGARDING AB 207, THE STATE
VIDEO FRANCHISING BILL

WHEREAS, the City of Oak Creek has an estimated population of 32,104 and has an estimated 8,600 cable television subscribers; and

WHEREAS, AB 207, the proposed State video franchising bill imposes an unfunded State mandate upon the City of Oak Creek by reducing Franchise Fees; and

WHEREAS, the proposed legislation unnecessarily adds additional responsibilities and financial liabilities to the State of Wisconsin which is already experiencing significant budget deficits; and

WHEREAS, the proposed legislation adversely affects local regulation, control and custody of the right of way; and

WHEREAS, the proposed legislation reduces the openness of government through the elimination of Public-Government-Educational (PEG) access; and

WHEREAS, the proposed legislation causes taxpayers within our community to subsidize the installation of AT&T equipment and lines (and future other providers, including the local *non-exclusive* cable franchisee) by preventing the City of Oak Creek from collecting permitting fees due and payable by any other public or private entity; and

WHEREAS, the proposed legislation substantially and negatively impacts consumer protections and recourse as contained in Cable Franchise Agreements; and

WHEREAS, the City of Milwaukee and AT&T have entered into a three (3) year Agreement bargained for in good faith between both parties that will eliminate the need for the proposed legislation; and

WHEREAS, the City of Milwaukee/AT&T Agreement can be a blueprint and model for the City of Oak Creek and communities statewide, including, but not limited to, the Regional Telecommunications Commission communities; and

WHEREAS, video competition has already come to various cities around the state and will be coming to Milwaukee without AB 207; and

WHEREAS, the City of Oak Creek would have no objection to the existing non-exclusive cable franchisee, Time-Warner Cable, from opting into such an Agreement.

NOW THEREFORE, BE IT RESOLVED, That the Common Council of the City of Oak Creek requests that the proposed video franchising legislation be withdrawn and

that the municipalities throughout the State of Wisconsin be encouraged to enter into agreements similar in scope and content to that Agreement negotiated between the City of Milwaukee and AT&T, and that existing cable franchise law be amended to permit existing local cable franchises to enter into similar agreements.

BE IT FURTHER RESOLVED that if State legislation is adopted the proposed bill be amended to replicate the provisions of the agreement negotiated between the City of Milwaukee and AT&T.

Introduced at a regular meeting of the Common Council of the City of Oak Creek held this 1st day of May, 2007.

Passed and adopted this 1st day of May, 2007.

/s/ Allan Foeckler
President, Common Council

Approved this 2nd day of May, 2007.

/s/ Richard Bolender
Mayor Richard R. Bolender

ATTEST:

/s/ Beverly Buretta
Beverly A. Buretta, City Clerk

VOTE: Ayes 6 Noes 0



RESOLUTION NO. 95
2006-2007 COMMON COUNCIL

Opposing Proposed Video Franchising Legislation

RECITALS:

- A. The City of West Bend is the 25th largest municipality in the State of Wisconsin, has an estimated population of 30,090 and has an estimated 8,000 cable television subscribers.
- B. The proposed State video franchising legislation (AB 207 and SB 107) imposes an unfunded State mandate upon the City of West Bend by reducing franchise fees (through a definitional change) which are paid to the City of West Bend.
- C. The proposed legislation unnecessarily adds additional responsibilities and financial liabilities to the State of Wisconsin which is already experiencing significant budget deficits.
- D. The proposed legislation decimates local regulation, control and custody of our right of ways.
- E. The proposed legislation reduces the openness and transparency of government through the reduction in funding for and possible elimination of Public-Government-Educational (PEG) access.
- F. The proposed legislation causes taxpayers within our community to subsidize the installation of AT&T equipment and lines (and future other providers, including the local non-exclusive cable franchisee) by preventing the City of West Bend from collecting permitting fees due and payable by any other public or private entity for the use of the City's rights of way.
- G. The proposed legislation substantially and negatively impacts consumer protections and recourse as contained in traditional cable franchise agreements.
- H. The City of Milwaukee and AT&T have negotiated a three (3) year Agreement bargained for in good faith between both parties that will eliminate the need for the proposed legislation.
- I. The City of Milwaukee/AT&T Agreement can be, and was intended to be, a blueprint and model for both our community and communities state-wide.
- J. The City of West Bend has no objection to the existing, non-exclusive cable franchisee, Charter Cable, opting into such an Agreement.

RESOLUTION:

Therefore, the Common Council of the City of West Bend, Washington County, Wisconsin do RESOLVE as follows:

1. That the City of West Bend requests that the proposed video franchising legislation (SB 107 / AB 207) be withdrawn, that municipalities throughout the State of Wisconsin be encouraged to enter into agreements similar in scope and content to that Agreement negotiated between the City of Milwaukee and AT&T and that existing cable franchise law be amended to permit existing local cable franchisees to enter into similar agreements.
2. That, as an alternative to withdrawing the proposed video franchising legislation entirely, the City of West Bend urges the State Legislature to support and adopt the amendments to the proposed legislation as recommended in the March 26, 2007 memorandum from the League of Wisconsin Municipalities, the Wisconsin Alliance of Cities and the Wisconsin Association of PEG Channels
3. That the City Clerk is directed to forward a signed copy of this Resolution to State Senator Glenn Grothman; State Representative Pat Strachota; the sponsors of the proposed legislation, State Senator Jeff Plale and State Representative Phil Montgomery; Governor Jim Doyle and the City's official newspaper.

Passed and approved the 9th day of April, 2007.

Introduced by Alderperson King Riffel

Douglas L. Bade, Mayor

Attest: Barbara A. Barringer, City Clerk



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

SESSION LAW 2006-151
HOUSE BILL 2047

AN ACT TO PROMOTE CONSUMER CHOICE IN VIDEO SERVICE PROVIDERS
AND TO ESTABLISH UNIFORM TAXES FOR VIDEO PROGRAMMING
SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 42.

"State Franchise for Cable Television Service.

"§ 66-350. Definitions.

The following definitions apply in this Article:

- (1) Cable service. – Defined in G.S. 105-164.3.
- (2) Cable system. – Defined in 47 U.S.C. § 522.
- (3) Channel. – A portion of the electromagnetic frequency spectrum that is used in a cable system and is capable of delivering a television channel.
- (4) Existing agreement. – A local franchise agreement that was awarded under G.S. 153A-137 or G.S. 160A-319 and meets either of the following:
 - a. Is in effect on January 1, 2007.
 - b. Expired before January 1, 2007, and the cable service provider under the agreement provides cable service to subscribers in the franchise area on January 1, 2007.
- (5) Pass a household. – Make service available to a household, regardless of whether the household subscribes to the service.
- (6) PEG channel. – A public, educational, or governmental access channel provided to a county or city.
- (7) Secretary. – The Secretary of State.
- (8) Video programming. – Defined in G.S. 105-164.3.

"§ 66-351. State franchising authority.

(a) Authority. – The Secretary of State is designated the exclusive franchising authority in this State for cable service provided over a cable system. This designation replaces the authorization to counties and cities in former G.S. 153A-137 and G.S. 160A-319 to award a franchise for cable service. This designation is effective January 1, 2007. After this date, a county or city may not award or renew a franchise for cable service.

(b) Award and Scope. – The Secretary is considered to have awarded a franchise to a person who files a notice of franchise under G.S. 66-352. A franchise for cable service authorizes the holder of the franchise to construct and operate a cable system over public rights-of-way within the area to be served. Chapter 160A of the General Statutes governs the regulation of public rights-of-way by a city.

"§ 66-352. Award of franchise and commencement of service.

(a) Notice of Franchise. – A person who intends to provide cable service over a cable system in an area must file a notice of franchise with the Secretary before

providing the service. A person who files a notice of franchise must pay a fee in the amount set in G.S. 57C-1-22 for filing articles of organization.

A notice of franchise is effective when it is filed with the Secretary. The notice of franchise must include all of the following:

- (1) The applicant's name, principal place of business, mailing address, physical address, telephone number, and e-mail address.
- (2) A description and map of the area to be served.
- (3) A list of each county and city in which the described service area is located, in whole or in part.
- (4) A schedule indicating when service is expected to be offered in the service area.

(b) Commencement of Service. – A person who files a notice of franchise under subsection (a) of this section must begin providing cable service in the service area described in the notice within 120 days after the notice is filed. If cable service does not begin within this period, the notice of franchise terminates 130 days after it was filed. If cable service begins within this period, the holder of the State-issued franchise must file a notice of service with the Secretary within 10 days after the cable service begins. Cable service begins when it passes one or more households in the described service area. This subsection does not apply to a cable service provider who terminates an existing agreement whose franchise area includes all of the service area described in a notice of franchise filed by the provider under subsection (a) of this section.

A notice of service for a service area must include all of the following:

- (1) The effective date of a notice of franchise for that area.
- (2) A description and map of the service area.
- (3) A statement that cable service has begun in the service area.

(c) Extension. – A person who intends to provide cable service over a cable system in an area that is contiguous with but outside the service area described in a notice of franchise on file with the Secretary must file a notice of franchise under subsection (a) of this section that includes the proposed area. The initial service requirements in subsection (b) of this section apply to the proposed area. If the map of the area to be served includes any area that is part of the service area of another State-issued franchise, the termination of a notice of franchise for the proposed area for failure to begin service within the required time does not affect the status of the other State-issued franchise.

(d) Withdrawal. – A person may withdraw a notice of franchise by filing a notice of withdrawal with the Secretary. The notice of withdrawal must be filed at least 90 days before the service is withdrawn.

"§ 66-353. Annual service report.

A holder of a State-issued franchise must file an annual service report with the Secretary. The report must be filed on or before July 31 of each year. The report must be accompanied by a fee in the amount set in G.S. 57C-1-22 for filing an annual report. The report must include all of the following:

- (1) The effective date of a notice of franchise for that area.
- (2) A description and map of the service area.
- (3) The approximate number of households in the service area.
- (4) A description and a map of the households passed in the service area as of July 1.
- (5) The percentage of households passed in the service area as of July 1.
- (6) The percentage of households passed in the service area as of July 1 of any preceding year for which a report was required under this section.
- (7) A report indicating the extent to which the holder has met the customer service requirements under G.S. 66-356(b).
- (8) A schedule indicating when service is expected to be offered in the service area, to the extent the schedule differs from one included in the

notice of franchise or in a report previously submitted under this section, and an explanation of the reason for the new schedule.

"§ 66-354. General filing and report requirements.

(a) General. – A document filed with the Secretary under this Article must be signed by an officer or general partner of the person submitting the document. Within five days after a person files a document with the Secretary under this Article, the person must send a copy of the document to any county or city included in the service area described in the document and to the registered agent of any cable service provider that is providing cable service under an existing agreement in the service area described in the document.

The provisions of Article 2 of Chapter 55D of the General Statutes apply to the submission of a document under this Article. A document filed under this Article is a public record as defined in G.S. 132-1. The Secretary must post a document filed under this Article on its Internet Web site or indicate on its Internet Web site that the document has been filed and is available for inspection.

A successor in interest to a person who has filed a notice of franchise is not required to file another notice of franchise. When a change in ownership occurs, the owner must file a notice of change in ownership with the Secretary within 14 days after the change becomes effective.

(b) Forfeiture. – A person who offers cable service over a cable system without filing a notice of franchise or a notice of service as required by this Article is subject to forfeiture of the revenue received during the period of noncompliance from subscribers to the cable service in the area of noncompliance. Forfeiture does not apply to revenue received from cable service provided over a cable system in an area that is adjacent to a service area described in a notice of franchise and notice of service filed by that cable service provider under G.S. 66-352 if the provider obtains a State-issued franchise and files a notice of service that includes this area within 20 days after a civil action for forfeiture is filed. A forfeiture does not affect the liability of the cable service provider for sales tax due under G.S. 105-164.4 on cable service.

A cable service provider whose area includes the area in which a person is providing cable service without complying with the notice of franchise and notice of service requirements may bring a civil action for forfeiture. The amount required to be forfeited in the action must be remitted to the Civil Penalty and Forfeiture Fund established in G.S. 115C-457.2.

"§ 66-355. Effect on existing local franchise agreement.

(a) Existing Agreement. – This Article does not affect an existing agreement except as follows:

(1) Effective January 1, 2007, gross revenue used to calculate the payment of the franchise tax imposed by G.S. 153A-154 or G.S. 160A-214 does not include gross receipts from cable service subject to sales tax under G.S. 105-164.4. This exclusion does not otherwise affect the calculation of gross revenue and the payment to counties and cities of franchise tax revenue under existing agreements that have not been terminated under subsection (b) of this section.

(2) A cable service provider under an existing agreement that is in effect on January 1, 2007, may terminate the agreement in accordance with subsection (b) of this section in any of the following circumstances:

a. A notice of service filed under G.S. 66-352 indicates that one or more households in the franchise area of the existing agreement are passed by both the cable service provider under the existing agreement and the holder of a State-issued franchise.

b. As of January 1, 2007, a county or city has an existing agreement with more than one cable service provider for substantially the same franchise area and at least twenty-five percent (25%) of the households in the franchise areas of the

existing agreements are passed by more than one cable service provider.

- c. A person provides wireline competition in the franchise area of the existing agreement by offering video programming over wireline facilities to single family households by a method that does not require a franchise under this Article. A notice of termination filed on the basis of wireline competition must include evidence of the competition in providing video programming service, such as an advertisement announcing the availability of the service, the acceptance of an order for the service, and information on the provider's Web site about the availability of the service. A county or city is allowed 60 days to review the evidence. The effective date of the termination is tolled during this review period. At the end of this period, the termination proceeds unless the county or city has obtained an order enjoining the termination based on the cable service provider's failure to establish the existence of wireline competition in its franchise area.

- (3) A cable service provider under an existing agreement that expired before January 1, 2007, may obtain a State-issued franchise. The provider does not have to terminate the agreement in accordance with subsection (b) of this section because the agreement has expired.

(b) Termination. – To terminate an existing agreement, a cable service provider must file a notice of termination with the affected county or city and file a notice of franchise with the Secretary. A termination of an existing agreement becomes effective at the end of the month in which the notice of termination is filed with the affected county or city. A termination of an existing agreement ends the obligations under the agreement and under any local cable regulatory ordinance that specifically authorizes the agreement as of the effective date of the termination but does not affect the rights or liabilities of the county or city, a taxpayer, or another person arising under the existing agreement or local ordinance before the effective date of the termination.

§ 66-356. Service standards and requirements.

(a) Discrimination Prohibited. – A person who provides cable service over a cable system may not deny access to the service to any group of potential residential subscribers within the filed service area because of the race or income of the residents. A violation of this subsection is an unfair or deceptive act or practice under G.S. 75-1.1.

In determining whether a cable service provider has violated this subsection with respect to a group of potential residential subscribers in a service area, the following factors must be considered:

- (1) The length of time since the provider filed the notice of service for the area. If less than a year has elapsed since the notice of service was filed, it is conclusively presumed that a violation has not occurred.
- (2) The cost of providing service to the affected group due to distance from facilities, density, or other factors.
- (3) Technological impediments to providing service to the affected group.
- (4) Inability to obtain access to property required to provide service to the affected group.
- (5) Competitive pressure to respond to service offered by another cable service provider or other provider of video programming.

(b) FCC Standards. – A person who provides cable service over a cable system must comply with the customer service requirements in 47 C.F.R. Part 76 and emergency alert requirements established by the Federal Communications Commission.

(c) Complaints. – The Consumer Protection Division of the Attorney General's Office is designated as the State agency to receive and respond to customer complaints

concerning cable services. Persistent or repeated violations of the federal customer service requirements or the terms and conditions of the cable service provider's agreement with customers are unfair or deceptive acts or practices under G.S. 75-1.1.

To facilitate the resolution of customer complaints, the cable service provider must include the following statement on the customer's bill: "If you have a complaint about your cable service, you should first contact customer service at the following telephone number: (insert the cable service provider's customer service telephone number). If the cable service provider does not satisfactorily resolve your complaint, contact the Consumer Protection Division of the Attorney General's Office of the State of North Carolina (insert information on how to contact the Consumer Protection Division of the Attorney General's Office).

(d) No Build-Out. – No build-out requirements apply to a person who provides cable service under a State-issued franchise.

"§ 66-357. Availability and use of PEG channels.

(a) Application. – This section applies to a person who provides cable service under a State-issued franchise. It does not apply to a person who provides cable service under an existing agreement.

(b) Local Request. – A county or city must make a written request to a cable service provider for PEG channel capacity. The request must include a statement describing the county's or city's plan to operate and program each channel requested. The cable service provider must provide the requested PEG channel capacity within the later of the following:

- (1) 120 days after the cable service provider receives the written request.
- (2) 30 days after any interconnection requested under G.S. 66-358(a)(1) is accomplished.

(c) Initial PEG Channels. – A city with a population of at least 50,000 is allowed a minimum of three initial PEG channels plus any channels in excess of this minimum that are activated, as of July 1, 2006, under the terms of an existing franchise agreement whose franchise area includes the city. A city with a population of less than 50,000 is allowed a minimum of two initial PEG channels plus any channels in excess of this minimum that are activated, as of July 1, 2006, under the terms of an existing franchise agreement whose franchise area includes the city. For a city included in the franchise area of an existing agreement, the agreement determines the service tier placement and transmission quality of the initial PEG channels. For a city that is not included in the franchise area of an existing agreement, the initial PEG channels must be on a basic service tier, and the transmission quality of the channels must be equivalent to those of the closest city covered by an existing agreement.

A county is allowed a minimum of two initial PEG channels plus any channels in excess of this minimum that are activated, as of July 1, 2006, under the terms of an existing franchise agreement whose franchise area includes the county. For a county included in the franchise area of an existing agreement, the agreement determines the service tier placement and transmission quality of the initial PEG channels. For a county that is not included in the franchise area of an existing agreement, the initial PEG channels must be on a basic service tier and the transmission quality of the channels must be equivalent to those of any city with PEG channels in the county.

The cable service provider must maintain the same channel designation for a PEG channel unless the service area of the State-issued franchise includes PEG channels that are operated by different counties or cities and those PEG channels have the same channel designation. Each county and city whose PEG channels are served by the same cable system headend must cooperate with each other and with the cable system provider in sharing the capacity needed to provide the PEG channels.

(d) Additional PEG Channels. – A county or city that does not have seven PEG channels, including the initial PEG channels, is eligible for an additional PEG channel if it meets the programming requirements in this subsection. A county or city that has seven PEG channels is not eligible for an additional channel.

A county or city that meets the programming requirements in this subsection may make a written request under subsection (b) of this section for an additional channel. The additional channel may be provided on any service tier. The transmission quality of the additional channel must be at least equivalent to the transmission quality of the other channels provided.

The PEG channels operated by a county or city must meet the following programming requirements for at least 120 continuous days in order for the county or city to obtain an additional channel:

- (1) All of the PEG channels must have scheduled programming for at least eight hours a day.
- (2) The programming content of each of the PEG channels must not repeat more than fifteen percent (15%) of the programming content on any of the other PEG channels.
- (3) No more than fifteen percent (15%) of the programming content on any of the PEG channels may be character-generated programming.

(e) Use of Channels. – If a county or city no longer provides any programming for transmission over a PEG channel it has activated, the channel may be reprogrammed at the cable service provider's discretion. A cable service provider must give at least a 60-day notice to a county or city before it reprograms a PEG channel that is not used. The cable service provider must restore a previously lost PEG channel within 120 days of the date a county or city certifies to the provider a schedule that demonstrates the channel will be used.

(f) Operation of Channels. – A cable service provider is responsible only for the transmission of a PEG channel. The county or city to which the PEG channel is provided is responsible for the operation and content of the channel. A county or city that provides content to a cable service provider for transmission on a PEG channel is considered to have authorized the provider to transmit the content throughout the provider's service area, regardless of whether part of the service area is outside the boundaries of the county or city.

All programming on a PEG channel must be noncommercial. A cable service provider may not brand content on a PEG channel with its logo, name, or other identifying marks. A cable service provider is not required to transmit content on a PEG channel that is branded with the logo, name, or other identifying marks of another cable service provider.

(g) Compliance. – A county or city that has not received PEG channel capacity as required by this section may bring an action to compel a cable service provider to comply with this section.

"§ 66-358. Transmission of PEG channels.

(a) Service. – A cable service provider operating under a State-issued franchise must transmit a PEG channel by one of the following methods:

- (1) Interconnection with another cable system operated in its service area. A cable service provider operating in the same service area as a provider under a State-issued franchise must interconnect its cable system on reasonable and competitively neutral terms with the other provider's cable system within 120 days after it receives a written request for interconnection and may not refuse to interconnect on these terms. The terms include compensation for costs incurred in interconnecting. Interconnection may be accomplished by direct cable, microwave link, satellite, or another method of connection.
- (2) Transmission of the signal from each PEG channel programmer's origination site, if the origination site is in the provider's service area.

(b) Signal. – All PEG channel programming provided to a cable service provider for transmission must meet the federal National Television System Committee standards or the Advanced Television Systems Committee Standards. If a PEG channel programmer complies with these standards and the cable service provider cannot

transmit the programming without altering the transmission signal, then the cable service provider must do one of the following:

- (1) Alter the transmission signal to make it compatible with the technology or protocol the cable service provider uses to deliver its cable service.
- (2) Provide to the county or city the equipment needed to alter the transmission signal to make it compatible with the technology or protocol the cable service provider uses to deliver its cable service.

"§ 66-359. PEG channel grants.

(a) PEG Channel Fund. – The PEG Channel Fund is created as an interest-bearing special revenue fund. It consists of revenue allocated to it under G.S. 105-164.44I(b) and any other revenues appropriated to it. The e-NC Authority, created under G.S. 143B-437.46, administers the Fund.

(b) Grants. – A county or city may apply to the e-NC Authority for a grant from the PEG Channel Fund. In awarding grants from the Fund, the e-NC Authority must, to the extent possible, select applicants from all parts of the State based upon need. Grants from the Fund are subject to the following limitations:

- (1) The grant may not exceed twenty-five thousand dollars (\$25,000).
- (2) The applicant must match the grant on a dollar-for-dollar basis.
- (3) The grant may be used only for capital expenditures necessary to provide PEG channel programming.
- (4) An applicant may receive no more than one grant per fiscal year.

(c) Reports. – The e-NC Authority must publish an annual report on grants awarded under this section. The report must list each grant recipient, the amount of the grant, and the purpose of the grant.

"§ 66-360. Service to public building.

At the written request of a county or city, a cable service provider operating under a State-issued franchise must provide cable service without charge to a public building located within 125 feet of the provider's cable system. The required service is the basic, or lowest-priced, service the provider offers to customers. The terms and conditions that apply to service provided to a residential retail customer apply to the service provided to the public building. Only one service outlet is required for a building. The cable service provider is not required to provide inside wiring and is not required to provide service that conflicts with restrictions that apply in a program licensing agreement or another contract. A public building is a building used as a public school, a charter school, a county or city library, or a function of the county or city."

SECTION 2. G.S. 105-164.3 is amended by adding a new subdivision to read:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

(50c) Video programming. – Programming provided by, or generally considered comparable to programming provided by, a television broadcast station, regardless of the method of delivery."

SECTION 3. G.S. 105-164.4(a)(6) reads as rewritten:

"(6) The combined general rate applies to the gross receipts derived from providing any of the following broadcast services-video programming to a subscriber in this State. A cable service provider, a direct-to-home satellite service provider, and any other person engaged in the business of providing any of these services-video programming is considered a retailer under this Article:Article.

- a. Direct to home satellite service.
- b. Cable service."

SECTION 4. G.S. 105-164.4C(d) is recodified as G.S. 105-164.4D with the catch line "Bundled services."

SECTION 5. G.S. 105-164.4D, as recodified by Section 4 of this act, reads as rewritten:

"§ 105-164.4D. Bundled services.

~~Bundled Services.~~—When a taxable telecommunications service is bundled with a service that is not taxable, the tax applies to the gross receipts from the taxable service in the bundle as follows:

- (1) If the service provider offers all the services in the bundle on an unbundled basis, tax is due on the unbundled price of the taxable service, less the discount resulting from the bundling. The discount for a service as the result of bundling is the proportionate price decrease of the service, determined on the basis of the total unbundled price of all the services in the bundle compared to the bundled price of the services.
- (2) If the service provider does not offer one or more of the services in the bundle on an unbundled basis, tax is due on the taxable service based on a reasonable allocation of revenue to that service. If the service provider maintains an account for revenue from a taxable service, the service provider's allocation of revenue to that service for the purpose of determining the tax due on the service must reflect its accounting allocation of revenue to that service."

SECTION 6. The catch line to G.S. 105-164.12B reads as rewritten:

"§ 105-164.12B. ~~Bundled transactions.~~ Tangible personal property bundled with service contract."

SECTION 7. G.S. 105-164.44F(a) reads as rewritten:

"(a) Amount. — The Secretary must distribute ~~to the cities~~ part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is ~~eighteen and three one hundredths percent (18.03%)~~ the following percentages of the net proceeds of the taxes collected during the ~~quarter,~~ quarter:

- (1) Eighteen and three one-hundredths percent (18.03%), minus two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948) (\$2,620,948), must be distributed to cities in accordance with this section. This—The deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction." The Secretary must distribute the specified percentage of the proceeds, less the "freeze deduction" among the cities in accordance with this section.
- (2) Seven and twenty-three one-hundredths percent (7.23%) must be distributed to counties and cities as provided in G.S. 105-164.44I."

SECTION 8. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.44I. Distribution of part of sales tax on video programming service and telecommunications service to counties and cities.

(a) Distribution. — The Secretary must distribute to the counties and cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. The Secretary must distribute two million dollars (\$2,000,000) of this amount in accordance with subsection (b) of this section and the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

- (1) The amount specified in G.S. 105-164.44F(a)(2).
- (2) Twenty-two and sixty-one one-hundredths percent (22.61%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.
- (3) Thirty-seven percent (37%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service.

(b) Supplemental PEG Support. – The Secretary must include the applicable amount of supplemental PEG channel support in each quarterly distribution to a county or city. The amount to include is one-fourth of twenty-five thousand dollars (\$25,000) for each qualifying PEG channel operated by the county or city. The amount of money distributed under this subsection may not exceed two million dollars (\$2,000,000) in a fiscal year. If the amount to be distributed for qualifying PEG channels in a fiscal year would otherwise exceed this maximum amount, the Secretary must proportionately reduce the applicable amount distributable for each PEG channel. If the amount to be distributed for qualifying PEG channels in a fiscal year is less than two million dollars (\$2,000,000), the Secretary must credit the excess amount to the PEG Channel Fund established in G.S. 66-359.

A county or city must certify to the Secretary by July 15 of each year the number of qualifying PEG channels it operates. A qualifying PEG channel is one that meets the programming requirements under G.S. 66-357(d). A county or city may not receive PEG channel support under this subsection for more than three qualifying PEG channels.

The amount included under this subsection in a distribution to a county or city is intended to supplement the PEG channel support available in the amount distributed under this section. The money distributed to a county or city under this subsection must be used by it for the operation and support of PEG channels. For purposes of this subsection, the term "PEG channel" has the same meaning as in G.S. 66-350.

(c) 2006-2007 Fiscal Year Distribution. – The share of a county or city is its proportionate share of the amount to be distributed to all counties and cities under this subsection. The proportionate share of a county or city is the base amount for the county or city compared to the base amount for all other counties and cities. The base amount of a county or city that did not impose a cable franchise tax under G.S. 153A-154 or G.S. 160A-214 before July 1, 2006, is two dollars (\$2.00) times the most recent annual population estimate for that county or city. The base amount of a county or city that imposed a cable franchise tax under either G.S. 153A-154 or G.S. 160A-214 before July 1, 2006, is the amount of cable franchise tax and subscriber fee revenue the county or city certifies to the Secretary that it imposed during the first six months of the 2006-2007 fiscal year. A county or city must make this certification by March 15, 2007. The certification must specify the amount of revenue that is derived from the cable franchise tax and the amount that is derived from the subscriber fee.

(d) Subsequent Distributions. – For subsequent fiscal years, the Secretary must multiply the amount of a county's or city's share under this section for the preceding fiscal year by the percentage change in its population for that fiscal year and add the result to the county's or city's share for the preceding fiscal year to obtain the county's or city's adjusted amount. Each county's or city's proportionate share for that year is its adjusted amount compared to the sum of the adjusted amounts for all counties and cities.

(e) Use of Proceeds. – A county or city that imposed subscriber fees during the first six months of the 2006-2007 fiscal year must use a portion of the funds distributed to it under subsections (c) and (d) of this section for the operation and support of PEG channels. The amount of funds that must be used for PEG channel operation and support is two times the amount of subscriber fee revenue the county or city certified to the Secretary that it imposed during the first six months of the 2006-2007 fiscal year. A county or city that used part of its franchise tax revenue in fiscal year 2005-2006 for the operation and support of PEG channels or a publicly owned and operated television

station must use the funds distributed to it under subsections (c) and (d) of this section to continue the same level of support for the PEG channels and public stations. The remainder of the distribution may be used for any public purpose.

(f) Late Information. – A county or city that does not submit information that the Secretary needs to make a distribution by the date the information is due is excluded from the distribution. If the county or city later submits the required information, the Secretary must include the county or city in the distribution for the quarter that begins after the date the information is received.

(g) Population Determination. – In making population determinations under this section, the Secretary must use the most recent annual population estimates certified to the Secretary by the State Budget Officer. For purposes of the distributions made under this section, the population of a county is the population of its unincorporated areas plus the population of an ineligible city in the county, as determined under this section.

(h) City Changes. – The following changes apply when a city alters its corporate structure or incorporates:

(1) If a city dissolves and is no longer incorporated, the proportional shares of the remaining counties and cities must be recalculated to adjust for the dissolution of that city.

(2) If two or more cities merge or otherwise consolidate, their proportional shares are combined.

(3) If a city divides into two or more cities, the proportional share of the city that divides is allocated among the new cities on a per capita basis.

(4) If a city incorporates after January 1, 2007, and the incorporation is not addressed by subdivisions (2) or (3) of this subsection, the share of the county in which the new city is located is allocated between the county and the new city on a per capita basis.

(i) Ineligible Cities. – An ineligible city is disregarded for all purposes under this section. A city incorporated on or after January 1, 2000, is not eligible for a distribution under this section unless it meets both of the following requirements:

(1) It is eligible to receive funds under G.S. 136-41.2.

(2) A majority of the mileage of its streets is open to the public.

(j) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution."

SECTION 9. G.S. 105-164.21B is repealed.

SECTION 10. G.S. 153A-137 is repealed.

SECTION 11. G.S. 153A-154 is repealed.

SECTION 12. G.S. 160A-211 reads as rewritten:

"§ 160A-211. Privilege license taxes.

(a) Authority. – Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises carried on within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:

G.S. 105-36	Amusements – Manufacturing, selling, leasing, or distributing moving picture films.
G.S. 105-36.1	Amusements – Outdoor theatres.
G.S. 105-37	Amusements – Moving pictures – Admission.
G.S. 105-42	Private detectives and investigators.
G.S. 105-45	Collecting agencies.
G.S. 105-46	Undertakers and retail dealers in coffins.
G.S. 105-50	Pawnbrokers.

G.S. 105-51.1	Alarm systems.
G.S. 105-53	Peddlers, itinerant merchants, and specialty market operators.
G.S. 105-54	Contractors and construction companies.
G.S. 105-55	Installing elevators and automatic sprinkler systems.
G.S. 105-61	Hotels, motels, tourist courts and tourist homes.
G.S. 105-62	Restaurants.
G.S. 105-65	Music machines.
G.S. 105-65.1	Merchandising dispensers and weighing machines.
G.S. 105-66.1	Electronic video games.
G.S. 105-74	Pressing clubs, dry cleaning plants, and hat blockers.
G.S. 105-77	Tobacco warehouses.
G.S. 105-80	Firearms dealers and dealers in other weapons.
G.S. 105-85	Laundries.
G.S. 105-86	Outdoor advertising.
G.S. 105-89	Automobiles, wholesale supply dealers, and service stations.
G.S. 105-89.1	Motorcycle dealers.
G.S. 105-90	Emigrant and employment agents.
G.S. 105-91	Plumbers, heating contractors, and electricians.
G.S. 105-97	Manufacturers of ice cream.
G.S. 105-98	Branch or chain stores.
G.S. 105-99	Wholesale distributors of motor fuels.
G.S. 105-102.1	Certain cooperative associations.
G.S. 105-102.5	General business license.

(b) Barbershop and Salon Restriction. – A privilege license tax levied by a city on a barbershop or a beauty salon may not exceed two dollars and fifty cents (\$2.50) for each barber, manicurist, cosmetologist, beautician, or other operator employed in the barbershop or beauty salon.

(c) ~~Piped Gas Restriction-Prohibition.~~ – A city may not ~~levy a privilege license tax on a person who is engaged in the business of supplying piped natural gas and is subject to tax under Article 5E of Chapter 105 of the General Statutes.~~ impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to a State tax for which the city receives a share of the tax revenue.

(1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of the General Statutes.

(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

(3) Providing video programming taxed under G.S. 105-164.4(a)(6).

(d) ~~Telecommunications Restriction.~~ – A city may not ~~impose a license, franchise, or privilege tax on a company taxed under G.S. 105-164.4(a)(4c).~~

SECTION 13. G.S. 160A-214 is repealed.

SECTION 14. G.S. 160A-296(a) reads as rewritten:

"(a) A city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation. General authority and control includes but is not limited ~~to~~ to all of the following:

(1) The duty to keep the public streets, sidewalks, alleys, and bridges in proper ~~repair~~; repair.

(2) The duty to keep the public streets, sidewalks, alleys, and bridges open for travel and free from unnecessary ~~obstructions~~; obstructions.

- (3) The power to open new streets and alleys, and to widen, extend, pave, clean, and otherwise improve existing streets, sidewalks, alleys, and bridges, and to acquire the necessary land therefor by dedication and acceptance, purchase, or eminent ~~domain; domain.~~
- (4) The power to close any street or alley either permanently or ~~temporarily; temporarily.~~
- (5) The power to regulate the use of the public streets, sidewalks, alleys, and ~~bridges; bridges.~~
- (6) The power to regulate, license, and prohibit digging in the streets, sidewalks, or alleys, or placing therein or thereon any pipes, poles, wires, fixtures, or appliances of any kind either on, above, or below the ~~surface; surface.~~ To the extent a municipality is authorized under applicable law to impose a fee or charge with respect to activities conducted in its rights-of-way, the fee or charge must apply uniformly and on a competitively neutral and nondiscriminatory basis to all comparable activities by similarly situated users of the rights-of-way.
- (7) The power to provide for lighting the streets, alleys, and bridges of the ~~city; and city.~~
- (8) The power to grant easements in street rights-of-way as permitted by G.S. 160A-273."

SECTION 15. G.S. 160A-319(a) reads as rewritten:

"(a) A city shall have authority to grant upon reasonable terms franchises for ~~the operation within the city of a telephone system and any of the enterprises listed in G.S. 160A-311 and for the operation of telephone systems. G.S. 160A-311, except a cable television system. A franchise granted by a city authorizes the operation of the franchised activity within the city.~~ No franchise shall be granted for a period of more than 60 years, except that a franchise for solid waste collection or disposal systems and facilities shall not be granted for a period of more than 30 years and cable television franchises shall not be granted for a period of more than 20 years. Except as otherwise provided by law, when a city operates an enterprise, or upon granting a franchise, a city may by ordinance make it unlawful to operate an enterprise without a franchise."

SECTION 16. To make the distribution required under G.S. 105-164.44I(b), as enacted by this act, for the 2006-2007 fiscal year, a county or city must certify to the Secretary of Revenue by March 15, 2007, the number of qualifying PEG channels it operates.

SECTION 17. A primary purpose of this act is to promote consumer choice in video service providers. A premise of this goal is that increased competition will lead to improved service. Under competition, a customer who is dissatisfied with service by one cable service provider will have the option of choosing a different service provider.

G.S. 66-356, as enacted by this act, designates the Consumer Protection Division of the Attorney General's Office as the agency to receive and respond to unresolved customer complaints about cable service provided by the holder of a State-issued franchise. The transition from local franchise agreements to State-issued franchises will occur gradually.

Due to the expected improvement in customer service and the gradual change to State-issued franchises, the impact of the requirement in new G.S. 66-356 on the staffing needs of the Consumer Protection Division is not clear. The Office of the Attorney General is therefore requested to monitor the number and type of cable service complaints it receives from customers in areas served under a local franchise agreement and from areas served under a State-issued franchise to determine whether the Consumer Protection Division needs additional staff to fulfill the duty imposed by new G.S. 66-356 and to make a report concerning staffing to the Fiscal Research Division of the North Carolina General Assembly by April 1, 2007.

SECTION 18. The Consumer Protection Division of the Attorney General's Office must report to the Revenue Laws Study Committee on or before April 1 of each

year, beginning April 1, 2008, on the following information concerning cable service complaints the Division has received from cable customers under G.S. 66-356:

- (1) The number of customer complaints.
- (2) The types of customer complaints.
- (3) The different means of resolving customer complaints.

SECTION 19. The Secretary of State has no authority to determine whether a person who is providing video programming is providing cable service over a cable system. An award of a State-issued franchise under Article 42 of Chapter 66 of the General Statutes, as enacted by this act, does not affect a determination of whether video programming provided by the holder of the franchise is considered cable service provided over a cable system under federal law or under a state law that applies substantially the same definitions of "cable service" and "cable system" as federal law. A person who provides video programming may obtain a State-issued franchise under Article 42 of Chapter 66 of the General Statutes, as enacted by this act, and thereby become subject to that Article, regardless of whether the video programming the person provides is considered cable service provided under a cable system under that Article or under federal law.

SECTION 20. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 21. The Revenue Laws Study Committee must review the effect Article 42 of Chapter 66 of the General Statutes, as enacted by this act, has on the issues listed in this section to determine if any changes to the law are needed:

- (1) Competition in video programming services.
- (2) The number of cable service subscribers, the price of cable service by service tier, and the technology used to deliver the service.
- (3) The deployment of broadband in the State.

The Committee must review the impact of this Article on these issues every two years and report its findings to the North Carolina General Assembly. The Committee must make its first report to the 2008 Session of the North Carolina General Assembly.

SECTION 22. This act becomes effective January 1, 2007. Sections 7 and 8 of this act apply to the distribution made within 75 days after March 31, 2007, for the quarter starting January 1, 2007.

In the General Assembly read three times and ratified this the 12th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

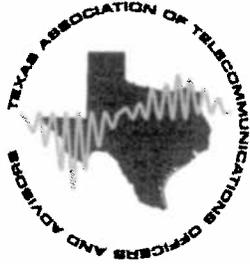
s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:45 p.m. this 20th day of July, 2006



End of Wednesday



May 31, 2007

The Texas Association of Telecommunication Officers and Advisors (TATO) prepared a cable rate chart in preparation of the Federal Communications Commission February 10, 2006 public meeting in Keller, Texas. The purpose of the chart was to dispel the myths that cable competition in Texas had caused rates to drop 25% or more. An email was sent to our members asking for their 2005 and 2006 rates. The responses we received from our members as well as responses received from non-members who became aware of our survey were compiled and presented to NATOA prior to the FCC hearing.

After the FCC issued their notice of proposed rulemaking to ensure a reasonable franchising process for new video market entrants earlier this year and with TATO receiving requests from across the country about our state issued franchising laws, we felt that it was time to update the information.

The original cities were contacted via email for updated information. Although the chart is not a scientific sampling of cities across Texas, it does represent cities in the north, south, east, and west regions of Texas as well as small, medium, and large cities. The cities that are represented on the chart also represent those cities that have the traditional overbuilders, those cities that are under state issued franchises and those cities that remain under their current cable franchise as provided by SB5.

The chart shows that the non-introductory published rates in Texas did not decrease but in fact increased. Although Verizon did offer introductory rates for new subscribers at considerable discounts that made it appear that rates had dropped significantly, the incumbent cable company or overbuilder also has the ability to offer introductory rates to new subscribers and often do.

To compare introductory rates to other companies' introductory rates or to the published rates was not an accurate picture of rates. Eventually, the introductory rates expire and subscribers pay the published rate.

For more information, please contact Margaret Somereve, TATO president at president@tatoa.org or 972-919-2596.

CABLE RATES IN TEXAS



CITY (2007 population)***	2005 Basic Service	2006 Basic Service	May 2007 Basic Service	% Change 2005 - 2007 Basic	2005 Standard Service	2006 Standard Service	May 2007 Standard Service	% Change 2005 - 2007 Standard
ABILENE (115,930)	\$15.48	\$16.68	\$16.68	7.75%	\$41.99	\$43.65	\$43.65	3.95%
ADDISON (15,250)	\$15.60	\$14.99	**		\$38.99	\$42.50	**	
Comcast	N/A	N/A	\$15.99	2.50%	N/A	N/A	\$44.50	14.13%
Time Warner	\$13.12	\$13.12	**		\$44.50	\$44.50	**	
ALLEN (76,600)	N/A	N/A	\$15.99	21.88%	N/A	N/A	\$44.50	0.00%
Comcast	\$10.00	\$10.00	\$11.00	10.00%	\$34.00	\$34.00	\$40.50	19.12%
Time Warner	\$10.50	\$10.50	\$10.50	0.00%	\$48.53	\$50.85	\$53.35	9.93%
Grande	\$11.50	\$11.50	\$13.50	17.39%	\$43.50	\$46.00	\$50.00	14.94%
AUSTIN (690,252)	\$14.99	\$14.99	**		\$42.50	\$42.50	**	0.00%
Comcast	N/A	N/A	\$15.99	6.67%	N/A	N/A	\$44.50	4.71%
Time Warner	N/A	\$12.95	\$12.95	0.00%	N/A	\$39.95	\$39.95	0.00%
Verizon	N/A	\$13.74	**		N/A	\$38.75	**	
CEDAR HILL (43,950)	N/A	N/A	\$15.99	16.38%	N/A	N/A	\$42.50	9.68%
Comcast	\$12.78	\$19.05	\$19.05	49.06%	\$46.99	\$48.99	\$48.99	4.26%
Time Warner	N/A	N/A	\$11.00	0.00%	N/A	N/A	\$40.50	0.00%
DENTON (105,550)	N/A	N/A	N/A	0.00%	N/A	N/A	\$42.99	0.00%
Charter	\$14.20	\$14.20	**		\$42.50	\$42.50	**	
Grande	N/A	N/A	\$15.99	12.61%	N/A	N/A	\$44.50	4.71%
Verizon	\$17.05	\$19.05	\$21.09	23.70%	\$46.99	\$48.99	\$50.99	8.51%
FARMERS BRANCH (28,500)	\$10.95	\$10.95	\$10.95	0.00%	\$29.95	\$29.95	\$29.95	0.00%
Comcast	N/A	\$12.95	N/A	-	N/A	\$39.95	\$42.99	7.61%
Time Warner	\$14.99	\$14.99	**		\$44.50	\$44.50	**	
FORT WORTH (656,850)	N/A	N/A	\$15.99	6.67%	N/A	N/A	\$44.50	0.00%
Charter	\$13.60	\$15.50	\$16.42	20.74%	\$40.99	\$42.99	\$44.99	9.76%
One Source Basic	\$17.05	\$19.05	\$19.05	11.73%	\$46.99	\$48.99	\$48.99	4.26%
Verizon	N/A	\$12.95	N/A	-	N/A	N/A	N/A	
GRAND PRAIRIE (161,550)	\$14.99	\$14.99	**		\$44.50	\$44.50	**	
Comcast	N/A	N/A	\$15.99	6.67%	N/A	N/A	\$44.50	0.00%
Time Warner	\$13.60	\$15.50	\$16.42	20.74%	\$40.99	\$42.99	\$44.99	9.76%
HOUSTON (1,963,631)	\$17.05	\$19.05	\$19.05	11.73%	\$46.99	\$48.99	\$48.99	4.26%
Charter	N/A	\$19.05	\$19.05		N/A	N/A	N/A	
Time Warner	\$13.60	\$15.50	\$16.42	20.74%	\$40.99	\$42.99	\$44.99	9.76%
HURST (38,500)	\$17.05	\$19.05	\$19.05	11.73%	\$46.99	\$48.99	\$48.99	4.26%
Charter	N/A	\$19.05	\$19.05		N/A	N/A	N/A	



CABLE RATES IN TEXAS

CITY (2007 population)***	2005 Basic Service		2006 Basic Service	May 2007 Basic Service	% Change 2005 - 2007 Basic	2005 Standard Service		2006 Standard Service	May 2007 Standard Service	% Change 2005 - 2007 Standard
	Service	Rate	Rate	Rate	%	Service	Rate	Service	Rate	%
IRVING (205,600)	Comcast	\$10.02	\$10.02	**		Comcast	\$44.50	Comcast	\$44.50	**
	Time Warner	N/A	N/A	\$12.99	29.64%	Time Warner	N/A	Time Warner	\$44.50	0.00%
	Verizon	N/A	\$12.95	\$12.95	0.00%	Verizon	N/A	Verizon	\$39.95	0.00%
KELLER (37,700)	Charter	\$15.05	\$19.05	\$19.05	26.58%	Charter	\$46.99	Charter	\$48.99	4.26%
	One Source Basic	N/A	\$10.95	\$10.95	0.00%	One Source Basic	N/A	One Source Basic	\$29.95	0.00%
	Verizon*	N/A	\$12.95	\$12.95	0.00%	Verizon*	N/A	Verizon*	\$39.95	0.00%
LEWISVILLE (91,550)	Comcast	\$10.38	\$10.38	**		Comcast	\$41.50	Comcast	\$44.50	**
	Time Warner	N/A	N/A	\$13.99	34.78%	Time Warner	N/A	Time Warner	\$44.50	7.23%
MESQUITE (136,750)	Comcast	\$14.17	\$14.17	**		Comcast	\$44.50	Comcast	\$44.50	**
	Time Warner	N/A	N/A	\$15.99	12.84%	Time Warner	N/A	Time Warner	\$44.50	0.00%
MIDLAND (94,996)	Cox	N/A	\$14.54	\$14.54	0.00%	Cox	N/A	Cox	\$41.99	0.00%
	Grande	N/A	N/A	N/A		Grande	N/A	Grande	\$41.00	7.32%
NACOGDOCHES (29,914)	Cox	\$20.75	\$20.75	\$20.75	0.00%	Cox	\$41.09	Cox	\$42.99	4.62%
	Charter	\$17.05	\$19.05	\$21.05	23.46%	Charter	\$46.99	Charter	\$50.99	8.51%
RICHARDSON (97,700)	Comcast	\$12.39	\$12.39	**		Comcast	\$44.50	Comcast	\$44.50	**
	Time Warner	N/A	N/A	\$15.99	29.06%	Time Warner	N/A	Time Warner	\$44.50	0.00%
ROUND ROCK (61,136)	Time Warner	\$10.50	\$10.50	\$10.50	0.00%	Time Warner	\$48.19	Time Warner	\$53.35	10.71%
	Grande	\$10.50	\$11.50	\$13.50	28.57%	Grande	\$41.00	Grande	\$50.00	21.95%
SAN ANTONIO (1,144,646)	Time Warner	\$12.15	\$12.75	\$13.40	10.29%	Time Warner	\$46.40	Time Warner	\$51.45	10.88%
	Grande	N/A	\$12.50	\$13.50	8.00%	Grande	\$47.00	Grande	\$50.00	6.38%
SOUTHLAKE (25,700)	Charter	\$17.05	\$19.05	\$19.05	11.73%	Charter	\$46.99	Charter	\$48.99	4.26%
	Verizon	N/A	\$12.95	\$12.95	0.00%	Verizon	N/A	Verizon	\$34.95	0.00%
VICTORIA (60,603)	Cox	\$15.39	\$16.22	\$16.22	5.39%	Cox	\$38.99	Cox	\$41.09	5.39%

CABLE RATES IN TEXAS



CITY (2007 population)*** WACO (113,726)	2005		2006		May 2007		% Change 2005 - 2007	
	Basic Service	Standard Service	Basic Service	Standard Service	Basic Service	Standard Service	Basic	Standard
Time Warner	\$8.45	\$29.95	\$10.50	\$35.95	\$10.50	\$40.70	24.26%	35.89%
Grande	\$9.00	\$33.00	\$11.00	\$37.50	\$11.00	\$40.50	22.22%	22.73%

State Issued Franchise Holders

* Received a muni franchise prior to SB5

** Due to Adelphia bankruptcy, Time Warner has acquired Comcast's muni franchise in the Dallas metroplex

*** Population sources are from the North Central Texas Council of Governments and the Texas cities' websites.

N/A — No service was provided by the cable provider during this timeframe.



The emergence of a new communications system — one based on high speed interactive networks designed for voice, data, and video communications — opens up tremendous opportunities for improving the quality of our economic, civic, and personal lives. A true high speed digital network offers advantages far beyond increased entertainment choices; it will accelerate business development and innovations in telemedicine, interactive distance learning, and e-government. As with the Internet itself, it is difficult to predict the advances that a true high speed network will inspire.

The United States has been slow to develop truly high speed networks. Other countries have overtaken the U.S. both in the speeds that are being provided and the percentage of people who have access to high speed networks. In fact, the U.S. has fallen to 16th in the world in terms of high speed Internet access.

It's time for the United States to adopt a telecommunications policy for the 21st century.

What is High Speed Internet and Why Is It Necessary?

High speed Internet is interactive, always-on, two-way communications provided by a host of different technologies including telephone lines, cable modems, fixed and terrestrial wireless, and fiber optics to the home. It is not just faster Internet. It is a connection platform, a gateway to a host of information, services and applications not available or attainable at slower speeds.

In the U.S., the Federal Communications Commission defines high speed as 200 kilobits per second (kbps) downstream. Basic dial-up connections of 56 kbps or DSL connections of 200 kbps cannot enable basic applications such as streaming video. Interactive features such as videoconferencing, an important application for global business, require 6 megabits per second (mbps). To facilitate the deployment of high speed Internet and to take advantage of these new applications, some countries have established goals of 100 mbps both in terms of download and upload speeds. In contrast, where "high speed" connections are available in the U.S., speeds most often range from 1 to 3 mbps download and 50-384 kbps upload.

Speed defines what is possible. Speed determines the amount of information that can be transmitted in a given time, the quality of the transmission and the timeliness of the transmission. Speed determines the type of transmission possible: two-way, voice, data, audio, video. In short, Speed Matters.

Benefits from truly high speed Internet networks include:

■ **Economic Growth & Quality Jobs.** New, high speed Internet applications create jobs and opportunities for innovation, growth, and e-commerce. Technology allows businesses based in rural and remote communities to compete in the global economy.

■ **Telemedicine and Independent Living.** High speed Internet allows instantaneous, interactive contact between health professionals and patients permitting remote monitoring, efficient chronic disease management, and more effective responses to emergencies. High speed Internet can help senior citizens and people with disabilities live independently, improve their quality of life and reduce costs of care.

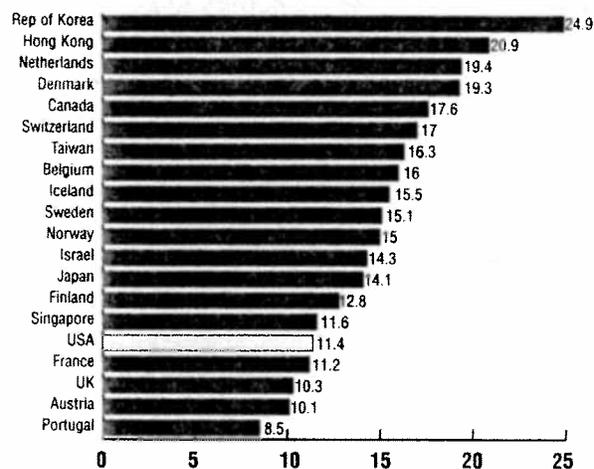
■ **Education & Integrated Learning.** Two-way high speed communication and videoconferencing allows students and teachers to minimize the obstacles of distance and maximize the potential of simultaneous voice, data, and video sharing.

■ **E-Government, Civic Participation and Public Safety.** Advanced high speed networks will allow citizens to increase participation in civic life, beyond simply downloading forms or researching programs. Government meetings could be opened to many more citizens using two-way video technology. High speed networks enable police, fire and emergency personnel to coordinate and respond more quickly to crises.

The U.S. Falls Behind as Current Policies Fail

The United States — the country that invented the Internet — has fallen behind many countries in terms of high speed Internet adoption and deployment. Our reliance on market forces, deregulation, and inadequate governmental programs has not served us well. We invest relatively less on communications; we are charged more for slower speeds; millions encounter a significant digital divide based on income and geography, and unionized jobs with good wages and benefits are being replaced by low-wage jobs with less training and higher turnover.

Broadband Subscribers Per 100 Inhabitants



Source: International Telecommunications Union, January, 2005

■ **The International Divide.** From 2002 to 2005, the U.S. fell from 11th to 16th in the world in terms of the percentage of residents with high speed Internet subscriptions, now ranking behind such countries as Japan, South Korea, Sweden and Singapore.

■ **The Speed & Price Gap.** In the U.S., DSL generally reaches speeds of up to 1.5 - 3.0 mbps at a price averaging \$30-\$50 per month while cable modems generally reach speeds of 3-5 mbps for \$40-\$50 per month. In Japan, an average connection with a speed of 26 mbps costs about \$22 per month.

■ **The Investment Gap.** The U.S. invests relatively less than other nations in telecommunications as a percentage of Gross Domestic Product.

■ **The Digital Divide.** Millions of Americans — especially in rural and low-income urban areas — do not have access to high speed Internet because it does not yet pay for providers to invest in these areas. For example, only 17% of adults in rural areas subscribe to high speed Internet compared to 31% in urban and 30% in suburban areas. There is also a

divide based on income. More than 62% of households with incomes over \$100,000 subscribe to high speed Internet at home while just 12% of households with incomes below \$30,000 subscribe.

The U.S. Needs a National Policy to Guarantee High Speed Internet for All

CWA believes that the goal of U.S. communications policy should be to connect each to all — the more people connected to a network, the greater the value of the network itself and the services it enables.

Almost every other developed country has a cohesive and comprehensive national strategy to stimulate the deployment of high speed broadband by establishing specific goals and policies. In the U.S. there is no organized or systematic plan. This policy vacuum threatens America's ability to maintain its leadership in high technology and applications.

To assure economic growth, the U.S. must reverse current trends and set a national policy.

Policies to Get Us There

Ensure Affordable Access by accelerating deployment. This will reduce broadband prices by increasing competition and creating economies of scale; we also must address affordability for low-income consumers.

Create Public-Private Partnerships to track high-speed deployment, identify underserved communities and address gaps in investment and consumer demand.

Stimulate Investment through tax incentives, loans, and/or direct subsidies.

Stimulate Demand to overcome barriers based on cost, geography, and disabilities.

Speed Matters: Five Key Principles

Speed and Universality Matter for Internet Access.

High-tech innovation, job growth, telemedicine, distance learning, rural development, public safety and e-government require truly high speed, universal networks.

The U.S. "High Speed" Definition is Too Slow. The FCC defines "high speed" as 200 kilobits per second (kbps) downstream. Government policies should immediately set "high speed" definition at 2 megabits per second (mbps) downstream, 1 upstream.

A National High Speed Internet for All Policy is Critical. The U.S. must adopt policies for universal access and set deployment timetables: 10 mbps down, 1 mbps up by 2010, with new benchmarks set for succeeding years.

The U.S. Must Preserve an Open Internet. High speed, high capacity networks will eliminate bandwidth scarcity and will promote an open Internet. Consumers are entitled to an open Internet allowing them to go where they want when they want. Nothing should be done to degrade or block access to any websites. Reserving proprietary video bandwidth is essential to finance the build-out of high speed networks.

Consumer and Worker Protections Must Be Safeguarded. Public policies should support growth of good, career jobs as a key to quality service. Government should require public reporting of deployment, actual speed and price.