



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4834/1
MDK:amn

2015 ASSEMBLY BILL 1007

March 29, 2016 - Introduced by Representatives HEBL, KAHL, JORGENSEN, WACHS, DANOU, SHANKLAND, JOHNSON, GOYKE, SINICKI, BERCEAU, KOLSTE, SUBECK and ZAMARRIPA, cosponsored by Senators VINEHOUT, BEWLEY, MILLER, C. LARSON, LASSA, WIRCH, RISSER and CARPENTER. Referred to Committee on Energy and Utilities.

1 **AN ACT to repeal** 66.0420 (5) (a) 2. b. and 2. c.; **to renumber and amend** 66.0420
2 (5) (a) 2. a.; **to amend** 66.0420 (5) (a) 3., 66.0420 (5) (b) 1. a., 66.0420 (5) (c) 1.,
3 66.0420 (5) (d) 1. and 66.0420 (7) (f); **to repeal and recreate** 66.0420 (5) (c) 3.
4 a.; and **to create** 66.0420 (5) (d) 3. and 4. and 66.0420 (7) (es) of the statutes;
5 **relating to:** public, educational, and governmental access channel
6 requirements for video service providers and interim cable operators.

Analysis by the Legislative Reference Bureau

This bill makes changes to requirements regarding public, educational, and governmental access channels (PEG channels). Under current law, the duty of a video service provider or interim cable operator to provide monetary support to a municipality for access facilities for PEG channels expired on January 1, 2011. A video service provider is a person to whom the Department of Financial Institutions has granted a franchise that allows the person to provide cable television or comparable service through facilities located, at least in part, in public rights-of-way. An interim cable operator is a person to whom a municipality granted a cable television franchise under prior law. Upon expiration of a municipally granted franchise, current law requires the holder of the franchise to obtain a video service franchise granted by DFI.

The bill allows a municipality to require, beginning on January 1, 2017, video service providers and interim cable operators to pay a fee for the purpose of

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supporting PEG channels. The fee, which must be set by ordinance, may be equal to no more than 1 percent of a video service provider's or interim cable operator's annual gross receipts. The bill also makes video service providers and interim cable operators responsible for making any changes to PEG channel content or programming that are necessary for compatibility with their service-delivery technology or protocol. Under current law, municipalities that provide PEG channel programming are responsible for such changes.

The bill also requires video service providers and interim cable operators to provide channel capacity for PEG channels with accessibility, functionality, and audio and visual quality that is at least equivalent to certain commercial channels. In addition, the bill requires video service providers and interim cable operators to do the following: 1) provide channel capacity for PEG channels so that it is viewable by subscribers without additional service or equipment charges; 2) provide such channel capacity on a service tier that is viewable by 100 percent of customers, rather than by more than 50 percent, which is required under current law; 3) upon request, put the PEG channel schedule into the electronic program guide with the same functionality as commercial broadcast channels; and 4) provide facilities adequate to carry signals for PEG channels without material degradation, alteration, or removal of PEG channel content. Also, the bill clarifies duties under current law regarding the relocation of origination points for PEG channels. Additionally, the bill eliminates the authority of a video service provider or interim cable operator to provide certain restored PEG channel capacity on any service tier. Finally, the bill eliminates limits on the aggregate number of PEG channels that apply to video service providers and interim cable operators that provide video programming to more than one municipality.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0420 (5) (a) 2. a. of the statutes is renumbered 66.0420 (5) (a) 2.
2 and amended to read:

3 66.0420 (5) (a) 2. ~~Except as provided in subd. 2. b. and c., if~~ If no incumbent
4 cable operator is providing channel capacity for PEG channels to a municipality
5 under a cable franchise that is in effect immediately before January 9, 2008, then,
6 if the municipality has a population of 50,000 or more, the municipality may require
7 each interim cable operator and video service provider that provides video service in

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1 the municipality to provide channel capacity for up to 3 PEG channels, and, if the
2 municipality has a population of less than 50,000, the municipality may require each
3 interim cable operator and video service provider that provides video service in the
4 municipality to provide channel capacity for no more than 2 PEG channels.

5 **SECTION 2.** 66.0420 (5) (a) 2. b. and c. of the statutes are repealed.

6 **SECTION 3.** 66.0420 (5) (a) 3. of the statutes is amended to read:

7 66.0420 (5) (a) 3. An interim cable operator or video service provider shall
8 provide any channel capacity for PEG channels required under this paragraph on
9 ~~any a~~ service tier that is viewed by ~~more than 50~~ 100 percent of the interim cable
10 operator's or video service provider's customers.

11 **SECTION 4.** 66.0420 (5) (b) 1. a. of the statutes is amended to read:

12 66.0420 (5) (b) 1. a. Notwithstanding par. (a), an interim cable operator or video
13 service provider may reprogram for any other purpose any channel capacity provided
14 for a PEG channel required by a municipality under par. (a) if the PEG channel is
15 not substantially utilized by the municipality. If the municipality certifies to the
16 interim cable operator or video service provider that reprogrammed channel capacity
17 for a PEG channel will be substantially utilized by the municipality, the interim cable
18 operator or video service provider shall, no later than 120 days after receipt of the
19 certification, restore the channel capacity for the PEG channel. ~~Notwithstanding~~
20 ~~par. (a) 3., an interim cable operator or video service provider may provide restored~~
21 ~~channel capacity for a PEG channel on any service tier.~~

22 **SECTION 5.** 66.0420 (5) (c) 1. of the statutes is amended to read:

23 66.0420 (5) (c) 1. Except as otherwise required under pars. (a) and (d) and sub.
24 (7) (em) or allowed under sub. (7) (es), a municipality may not require an interim
25 cable operator or video service provider to provide any funds, services, programming,

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1 facilities, or equipment related to public, educational, or governmental use of
2 channel capacity.

3 **SECTION 6.** 66.0420 (5) (c) 3. a. of the statutes is repealed and recreated to read:

4 66.0420 (5) (c) 3. a. If a municipality produces or maintains PEG channel
5 content or programming in a manner or form that is compatible with the interim
6 cable operator's or video service provider's video service network and that permits
7 the interim cable operator or video service provider to comply with the requirements
8 of par. (d) 3., submit the content or programming to the interim cable operator or
9 video service provider in that manner or form. If the municipality does not produce
10 or maintain PEG channel content or programming in such manner or form, the
11 interim cable operator or video service provider shall be responsible at its sole cost
12 for any changes in the manner or form of the transmission that are necessary to make
13 PEG channel content or programming compatible with the technology or protocol
14 used by the interim cable operator or video service provider to deliver services.

15 **SECTION 7.** 66.0420 (5) (d) 1. of the statutes is amended to read:

16 66.0420 (5) (d) 1. If a municipality requires an interim cable operator or video
17 service provider to provide capacity for PEG channels under par. (a), the interim
18 cable operator or video service provider shall be required to provide equipment and
19 transmission capacity sufficient to connect the interim cable operator's or video
20 service provider's headend or, video hub office, or equivalent transmission facilities
21 to the municipality's PEG access channel origination points existing as of January
22 9, 2008. A municipality shall permit the interim cable operator or video service
23 provider to determine the most economically and technologically efficient means of
24 providing such equipment and transmission capacity. If a municipality requests that
25 such a PEG access channel origination point be relocated, the interim cable operator

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1 or video service provider shall be required to provide only the first 200 feet of
2 transmission line beginning at the relocated origination point that is necessary to
3 connect the relocated origination point to the interim cable operator or video service
4 provider's headend or, video hub office ~~to such origination point, or equivalent~~
5 transmission facilities. A municipality shall be liable for the costs of construction of
6 such a transmission line beyond the first 200 feet from the relocated origination point
7 to the headend, video hub office, or equivalent transmission facilities and for any
8 construction costs associated with additional origination points, but not for the costs
9 associated with the transmission of PEG programming over such line. The interim
10 cable operator or video service provider may recover its costs to provide equipment
11 and transmission capacity under this subdivision by identifying and collecting a
12 "PEG Transport Fee" as a separate line item on customer bills.

13 **SECTION 8.** 66.0420 (5) (d) 3. and 4. of the statutes are created to read:

14 66.0420 (5) (d) 3. If a municipality requires an interim cable operator or video
15 service provider to provide channel capacity for PEG channels under par. (a), the
16 interim cable operator or video service provider shall provide the channel capacity
17 with the accessibility, functionality, and audio and visual quality that is at least
18 equivalent to the accessibility, functionality, and audio and visual quality for channel
19 capacity that is used for one of the following:

20 a. Local commercial television stations that the interim cable operator or video
21 service provider is required to carry under federal law.

22 b. The primary signal of the network-affiliated commercial television stations
23 carried on the video service network of the interim cable operator or video service
24 provider, if federal law does not require the interim cable operator or video service
25 provider to carry local commercial television stations.

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1 4. If a municipality requires an interim cable operator or video service provider
2 to provide channel capacity for PEG channels under par. (a), all of the following
3 apply:

4 a. Upon request by the municipality, the video provider or interim cable
5 operator shall itself or through a 3rd party vendor, not later than 90 days after the
6 date of the request, enable the municipality's PEG channel schedule to be present on
7 an ongoing basis on the provider's or operator's electronic program guide with the
8 same functionality as commercial broadcast channels.

9 b. The interim cable operator or video service provider shall provide the
10 channel capacity so that it is viewable by every subscriber of the interim cable
11 operator or video service provider without additional service or equipment charges.

12 c. The interim cable operator or video service provider shall provide facilities
13 adequate to carry signals for the PEG channels from the origination point of the
14 signals to subscribers without material degradation, alteration, or removal of
15 content.

16 **SECTION 9.** 66.0420 (7) (es) of the statutes is created to read:

17 66.0420 (7) (es) *Municipal ordinance.* A municipality may, by ordinance, for
18 the purpose of supporting PEG channels, require an interim cable operator or video
19 service provider to pay the municipality, beginning on January 1, 2017, a fee equal
20 to no more than 1 percent of the interim cable operator's or video service provider's
21 annual gross receipts. If an interim cable operator pays a franchise fee to a
22 municipality, the interim cable operator shall pay any fee required under this
23 paragraph at the time that the interim cable operator pays the franchise fee to the
24 municipality. A video service provider shall pay a fee required under this paragraph

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1 at the time that the video service provider pays a video service provider fee to the
2 municipality.

3 **SECTION 10.** 66.0420 (7) (f) of the statutes is amended to read:

4 66.0420 (7) (f) *Itemization.* A video service provider may identify and collect
5 the amount related to a video service provider fee and any fee imposed for monetary
6 support for access facilities for PEG channels as described in under par. (em) or (es)
7 as a separate line item on customer bills.

8 **SECTION 11. Initial applicability.**

9 (1) The treatment of section 66.0420 (5) (d) 1. of the statutes first applies to
10 relocations requested on the effective date of this subsection.

11 **SECTION 12. Effective dates.** This act takes effect on the day after publication,
12 except as follows:

13 (1) The treatment of section 66.0420 (5) (a) 3. and (b) 1. a. of the statutes takes
14 effect on the first day of the 4th month beginning after publication.

15 (END)