

1999 DRAFTING REQUEST

Bill

Received: **11/18/1999**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Rodney Moen (608) 266-8546**

By/Representing: **Tom Hanson**

This file may be shown to any legislator: **NO**

Drafter: **mlief**

May Contact:

Alt. Drafters:

Subject: **Public Util. - telco and cable
Munis - miscellaneous**

Extra Copies: **mdk**

Pre Topic:

No specific pre topic given

Topic:

Operation of cable television systems by municipalities

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|------------------------|--|----------------|----------------------------|----------------------------|-----------------|
| /? | kunkemd 12/01/1999 | | | _____ | | | Local |
| /1 | mlief 12/02/1999 | chanaman 12/02/1999 | jfrantze 12/02/1999 | _____ | lrb_docadmin 12/02/1999 | | Local |
| /2 | mlief 12/03/1999 | chanaman 12/03/1999 | jfrantze 12/03/1999 haugca 12/03/1999 | _____ | lrb_docadmin 12/03/1999 | lrb_docadmin 12/08/1999 | Local |
| /3 | mlief | chanaman | jfrantze | _____ | lrb_docadmin | lrb_docadmin | |

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------|-----------------|--|----------------|------------------|-----------------|-----------------|
| | 12/10/1999 | 12/10/1999 | 12/13/1999 _____ jfrantze _____ 12/14/1999 _____ | | 12/14/1999 | 12/14/1999 | |

FE Sent For:

↪ 01-21-00

<END>

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*cmH
12/10/13
12/11
12/13*

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Drafter: mlief

May Contact:

Alt. Drafters:

Subject: Public Util. - telco and cable
Munis - miscellaneous

Extra Copies:

mdk
Tom Hanson
(by fax - 256-6222)
on before noon 12/6)

Pre Topic:

No specific pre topic given

Topic:

Operation of cable television systems by municipalities

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
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| /? | kunkemd 12/01/1999 | | | _____ | | | Local |
| /1 | mlief 12/02/1999 | chanaman 12/02/1999 | jfrantze 12/02/1999 | _____ | lrb_docadmin 12/02/1999 | | |

FE Sent For:

Jb 12/3 Jb/mc
12/3
<END>

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Wanted: As time permits

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By/Representing: Tom Hanson

This file may be shown to any legislator: NO

Drafter: mlief

May Contact:

Alt. Drafters:

Subject: Public Util. - telco and cable
Munis - miscellaneous

Extra Copies: mdk

Tom Hanson
1 S. Pinckney St
53703 725

Pre Topic:

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Topic:

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|--------------|--------------------------------|-------------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | kunkemd 12/01/1999 mlief | cmh /1 12/2 | Joel | Joel 12/2 | | | |
| | | | | | | | |
| | | | | | | | |

FE Sent For:

<END>



**WISCONSIN CABLE
COMMUNICATIONS ASSOCIATION**

Thomas S. Hanson
Executive Director

One South Pinckney Street, Suite 725
Madison, WI 53703

608/256-1683 • 800/373-1683
Fax: 608/256-6992
WICABLE@AOL.COM

- 3982

would specify that the definition does not apply to requests for variances relating to shoreland, wetland and conservancy zoning ordinances.

27. ZONING VARIANCE FOR PROPERTY IN KENOSHA COUNTY

Assembly/Conference Committee: No change to Joint Finance.

Senate: Exclude certain property, whose owner proposes to subdivide the property, from any town, village, city or county zoning ordinance that would otherwise require that an improved road be created to subdivide a parcel of property. Extend the exclusion to property that: (a) is located in a county that was created in 1850 and borders one of the Great Lakes; (b) is not more than five miles from the border of another state; (c) borders a lake; and (d) is owned by a person who files with the appropriate zoning authorities, before January 1, 2000, a plan of subdivision that provides for the addition of one additional home to the parcel.

Tom Hanson
256-5299

Bill
for
Sen. Moen
don't allow
Munis. to
own or
operate

28. MUNICIPAL CABLE TELEVISION SYSTEMS

Assembly/Conference Committee: No change to Joint Finance.

Senate: Modify the current law provision authorizing municipalities to own and operate cable television systems by specifying that such systems must be operated on a competitively neutral and nondiscriminatory basis.

29. TAX INCREMENTAL FINANCING -- VILLAGE OF GILMAN

Conference Committee: Make the following modifications to current law provisions for a TIF district in a village that has a population of less than 10,000, that was incorporated in 1914 and is located in a county of less than 25,000 which contains a portion of the Yellow River and the Chequamegon Waters Flowage: (a) extend the period during which a TIF district project plan could be amended to modify the district's boundaries by adding contiguous properties that are served by public works improvement that were created under the TIF project plan from seven to eleven years; (b) extend the period during which expenditures may be made under the amended plan from three to five years after the amended plan is adopted by the village; and (c) extend the period during which positive tax increments can be used to fund the TIF project expenditures from 20 to 22 years. As a result, the maximum number of years that tax increments could be allocated to fund project costs under an amended plan for this district would increase from 30 to 38 years. These provisions would only apply to a TIF district in the Village of Gilman in Taylor County.

- tracts
- elec poles
- franchises
- E. eas
Analogize to
PSC
allow
But no
PSC or
no agency
to enforce

196.204

66.082(3)

TC w/ Tom Hanson

→ Franchise fees and renting poles:

These are major costs

We discussed the problem w/ the general
lg in light of fact that municipalities is
self-regulating. He didn't want to list
all expenses b/c might miss something.

I pointed out that while fees + poles
were known costs, municip - would have
no way of taking into account debt service
of private companies, for example.

I also mentioned that bill might be preempted
by 47 USC 543.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3982/1

MJL:.....

cmk

1999 BILL

To editing
Dec 2.

Due Dec 3rd

D-N

1 AN ACT ^{grant} relating to: cable television rates of municipal cable television
2 operators.

granted a franchise by the municipality

Analysis by the Legislative Reference Bureau

Under current law a municipality may own and operate a cable television system and may award and regulate a cable television system franchise. This bill requires a municipality that owns and operates its own cable television system to operate that system on a competitively neutral and nondiscriminatory basis by ensuring that its cable television rates reflect the costs of franchise fees, pole rentals and all other costs that the municipality would incur were it a nonmunicipal cable operator.

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:

3 SECTION 1. 66.082 (3) (c) of the statutes is amended to read:
4 66.082 (3) (e) Establish Subject to sub. (3m), establish rates and regulate
5 services to the extent provided under federal law.

BILL

1 **SECTION 2.** 66.082 (3m) of the statutes is created to read:

2 66.082 (3m) MUNICIPAL CABLE TELEVISION SYSTEM. A municipality that owns and
3 operates a cable television system shall operate its system on a competitively neutral
4 and nondiscriminatory basis by ensuring that its cable television rates reflect the
5 cost of franchise fees, pole rentals and all other costs the municipality would incur
6 were it a nonmunicipal cable operator granted a franchise by the municipality.

7 **SECTION 3. Effective date.**

8 (1) This act takes effect on the first day of the 3rd month beginning after
9 publication.

10

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3982/1dn
MJL:.....

cm w

1. In discussing the proposed draft language that was included in the Senate's version of the budget with Thomas Hanson, I noted that the language's ambiguity might prove problematic because municipalities are largely self-regulating in the area of cable television. Thus, I suggested including language that referred to the cost of franchise fees and poles to ensure that, at a minimum, those costs were reflected in the municipality's cable television rates, and he concurred. I also noted that it was unclear whether a municipality would be able to determine the other costs of a nonmunicipal operator.

2. Please note that this bill, were it enacted, may be preempted by federal law, specifically 47 USC section 543. This section prohibits a state from regulating the rates for cable service of a cable system that is owned and operated by a municipality if that is the only cable system located within the municipality. The section also prohibits regulation of rates for a cable system if the FCC has found that the cable system is subject to effective competition.

3. I delayed the effective date by three months to give municipalities time to adjust their rates.

Madelon J. Lief
Legislative Attorney
Phone: (608) 267-7380

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3982/1dn
MJL:cmh:jf

December 2, 1999

1. In discussing the proposed draft language that was included in the Senate's version of the budget with Thomas Hanson, I noted that the language's ambiguity might prove problematic because municipalities are largely self-regulating in the area of cable television. Thus, I suggested including language that referred to the cost of franchise fees and poles to ensure that, at a minimum, those costs were reflected in the municipality's cable television rates, and he concurred. I also noted that it was unclear whether a municipality would be able to determine the other costs of a nonmunicipal operator.

2. Please note that this bill, were it enacted, may be preempted by federal law, specifically 47 USC section 543. This section prohibits a state from regulating the rates for cable service of a cable system that is owned and operated by a municipality if that is the only cable system located within the municipality. The section also prohibits regulation of rates for a cable system if the FCC has found that the cable system is subject to effective competition.

3. I delayed the effective date by three months to give municipalities time to adjust their rates.

Madelon J. Lief
Legislative Attorney
Phone: (608) 267-7380



1999 BILL

in the budget summary

D-N

Due Mon, 12/6 by noon

To edit 12/3, 2pm

SECTION #.

CR; 65.90(3)(cm) A municipality that owns and operates a cable television system shall report separately the cost of franchise fees, pole rentals and all other expenses that the municipality would incur were it a nonmunicipal cable operator that had been granted a franchise by the municipality.

§ 65.90(3)(cm)

operation and costs of municipal cable television systems

reorganat

1 AN ACT to amend 66.082 (3) (e); and to create 66.082 (3m) of the statutes; relating to: cable television rates of municipal cable television operators

2

Analysis by the Legislative Reference Bureau

Under current law a municipality may own and operate a cable television system and may award and regulate a cable television system franchise. This bill requires a municipality that owns and operates its own cable television system to operate that system on a competitively neutral and nondiscriminatory basis by ensuring that its cable television rates reflect the cost of franchise fees, pole rentals and all other expenses that the municipality would incur were it a nonmunicipal cable operator granted a franchise by the municipality.

expenses

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:

3

SECTION 1. 66.082 (3) (e) of the statutes is amended to read:

4

66.082 (3) (e) Establish Subject to sub. (3m), establish rates and regulate

5

services to the extent provided under federal law.

6

SECTION 2. 66.082 (3m) of the statutes is created to read:

stays

and requires the municipality to report separately in the municipal budget summary

BILL

1 66.082 (3m) MUNICIPAL CABLE TELEVISION SYSTEM. A municipality that owns and
2 operates a cable television system shall operate its system on a competitively neutral
3 and nondiscriminatory basis. ~~by ensuring that its cable television rates reflect the~~
4 ~~cost of franchise fees, pole rentals and all other costs the municipality would incur~~
5 ~~were it a nonmunicipal cable operator granted a franchise by the municipality.~~

6 **SECTION 3. Effective date.**

7 (1) This act takes effect on the first day of the 3rd month beginning after
8 publication.

9 **(END)**

mjl/cmtt

D-N

(9) At the request of Tom Hanson, I have redrafted the bill to remove language requiring a municipal cable television operator to reflect ^{cost} ~~cost~~ of franchise fees and pole rentals in its rates. ^{fees and} ~~fees and~~ Mr. Hanson was concerned that any attempt to regulate rates would be challenged ^{on} on preemption grounds. Instead, this bill requires these costs to be included in the municipal budget summary. Please note, however, that Mr. Hanson wanted me to retain the requirement that a municipality operate ^{its} ~~its~~ cable television system "on a competitively ^{nondiscriminatory} neutral and nondiscriminatory basis." This language may raise a preemption issue if the language is construed to require a municipality to adjust its rates.

END OF D-NOTE

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3982/2dn
MJL:cmh:jf

December 3, 1999

At the request of Tom Hanson, I have redrafted the bill to remove language requiring a municipal cable television operator to reflect the cost of franchise fees and pole rentals in its rates. Mr. Hanson was concerned that any attempt to regulate rates would be challenged on preemption grounds. Instead, this bill requires these costs to be included in the municipal budget summary. Please note, however, that Mr. Hanson wanted me to retain the requirement that a municipality operate its cable television system "on a competitively neutral and nondiscriminatory basis." This language may raise a preemption issue if the language is construed to require a municipality to adjust its rates.

Madelon J. Lief
Legislative Attorney
Phone: (608) 267-7380

Transmission Report

Date/Time
Local ID
Local Name
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12- 3-99;16:51
608 264 6948
Legislative Bureau
Wis. Assembly

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STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: 608 266-0261
LOCAL FAX: 608 266-0222
REFERENCE SECTION: 608 266-0244
REFERENCE FAX: 608 266-0948

FAX TRANSMITTAL COVER SHEET

(From: LRB-Legal Section-Front Office ... Fax: 608-264-6948)

Date: 12-03-99 Time: 3:50 pm

Total pages transmitted, including this page: 4

Please Deliver This FAX To: Tom Hanson

Telephone Number: _____

FAX Number: 256-6222

MESSAGE: 99-3982/2 (By mJL)

Senders Name: Mike Barman

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THANK YOU**

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**** Notes ****

EC: Error Correct
BC: Broadcast Send
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LS: Local Scan

RE: Resend
MP: Multi-Poll
RM: Receive to Memory
LP: Local Print

PD: Palled by Remote
PG: Polling a Remote
DR: Document Removed
FO: Forced Output

MB: Receive to Mailbox
PI: Power Interruption
TM: Terminated by user
WT: Waiting Transfer

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 12/03/1999

To: Senator Moen

Relating to LRB drafting number: LRB-3982

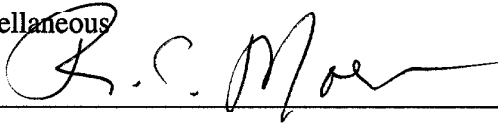
Topic

Operation of cable television systems by municipalities

Subject(s)

Public Util. - telco and cable, Munis - miscellaneous

1. **JACKET** the draft for introduction _____



in the **Senate** or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Madelon J. Lief, Legislative Attorney
Telephone: (608) 267-7380



RM run

1999 BILL

To citing 12/10

SOON

D-N

prepare and maintain records that include

and the amount, source and cost of working capital used for the municipal cable television system

repeal

1 AN ACT to create 65.90 (3) (cm) and 66.082 (3m) of the statutes, relating to:
2 operation and costs of municipal cable television systems.

Analysis by the Legislative Reference Bureau

Under current law a municipality may own and operate a cable television system and may award and regulate a cable television system franchise. This bill requires a municipality that owns and operates its own cable television system to ~~operate that system on a competitively neutral and nondiscriminatory basis and requires the municipality to report separately in the municipal budget summary the~~ cost of franchise fees, pole rentals and all other expenses that the municipality would incur were it a nonmunicipal cable operator granted a franchise by the municipality.

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

INSERT A
move to next page

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

3 SECTION 1. 65.90 (3) (cm) of the statutes is created to read:
4 ~~also (cm)~~ A municipality that owns and operates a cable television system
5 shall ~~report separately in the budget summary~~ prepare and maintain records that include all of the following: A 1, the cost of franchise fees, pole rentals

NOT: The bill also prohibits the municipality from allocating municipal costs in a way that subsidizes directly or indirectly the provision of cable television service and indebtedness

BILL

INSERT A

INSERT A

1 and all other expenses that the municipality would incur were it a nonmunicipal
2 cable operator that had been granted a franchise by the municipality.

3 **SECTION 2.** 66.082 (3m) of the statutes is created to read:

4 66.082 (3m) MUNICIPAL CABLE TELEVISION SYSTEM. A municipality that owns and
5 operates a cable television system ~~shall operate its system on a competitively neutral~~
6 ~~and nondiscriminatory basis.~~ *may not allocate municipal costs and indebtedness*

7 **SECTION 3. Effective date.**

8 (1) This act takes effect on the first day of the 3rd month beginning after
9 publication.

10 (END)

*in a way that subsidizes directly or indirectly
the provision of cable television service,
municipal*

→ Q12. The amount, source and cost of working capital used for the municipal cable television system.

MSL/cm H

D-N

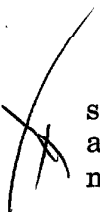
This redraft prohibits a municipality from allocating municipal ~~expenses~~ costs in a way that subsidizes the provision of municipal cable television service. It also retains language about reporting costs but I moved that language to chapter 66 because not all municipalities are subject to the municipal budget requirements of chapter 65.

MSL

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3982/3dn
MJL:cmh:jf

December 10, 1999

 This redraft prohibits a municipality from allocating municipal costs in a way that subsidizes the provision of municipal cable television service. It also retains language about reporting costs, but I moved that language to chapter 66 because not all municipalities are subject to the municipal budget requirements of chapter 65.

Madelon J. Lief
Legislative Attorney
Phone: (608) 267-7380

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