

2003 SENATE BILL 272

October 8, 2003 – Introduced by Senators KANAVAS, KEDZIE, PLALE, STEPP, REYNOLDS, M. MEYER, S. FITZGERALD, WIRCH, LEIBHAM, A. LASEE, BRESKE, BROWN, CARPENTER and WELCH, cosponsored by Representatives MONTGOMERY, VRAKAS, SUDER, J. FITZGERALD, F. LASEE, OWENS, GUNDRUM, SCHNEIDER, SHILLING, D. MEYER, HUNDERTMARK, STONE, HUEBSCH, GRONEMUS, PETTIS, GROTHMAN, NASS, SERATTI, LEMAHIEU, HINES, FRISKE, VAN ROY, J. WOOD, MUSSER and JESKEWITZ. Referred to Committee on Transportation and Information Infrastructure.

1 **AN ACT** *to renumber and amend* 196.204 (5) (a); *to amend* 196.203 (1) and
2 196.204 (5) (b); and *to create* 66.0419 (3m), 66.0422 and 196.204 (5) (ag) of the
3 statutes; **relating to:** local government telecommunications utilities and
4 public hearings for ordinances and resolutions authorizing local government
5 cable television, telecommunications, and Internet access facilities.

Analysis by the Legislative Reference Bureau

This bill prohibits a city, village, town, or county (local government) that owns and operates a cable television system from requiring nonsubscribers to pay any of the costs of the system. The prohibition also applies to any entity owned, operated, or controlled, in whole or in part, by such a local government. There is one exception to this prohibition. A local government or entity may require nonsubscribers to pay the following costs: 1) the cost of public, educational, and governmental access channels; and 2) the cost of debt service on public improvement bonds for the construction, renovation, or expansion of the local government's cable television system.

In addition, current law requires telecommunications services and basic network functions of telecommunications utilities to be priced to exceed their total service long-run incremental costs. This bill specifies that, for a telecommunications utility that is a local government, total service long-run incremental costs must take into account, by imputation or allocation, equivalent charges for all taxes, pole rentals, rights of way, licenses, and similar costs that are incurred by

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telecommunications utilities that are not local governments. Also, under current law, the Public Service Commission (PSC) may, under certain circumstances, waive the requirement that prices must exceed total service long-run incremental costs. The bill prohibits the PSC from waiving the requirement for a telecommunications utility that is a local government. In addition, under current law, certain small telecommunications utilities are exempt from the requirement. The bill eliminates the exemption for a telecommunications utility that is a local government. Also, the bill specifies that a telecommunications utility that is a local government is subject to the requirement even if the telecommunications utility is an alternative telecommunications utility that is otherwise exempt from PSC regulation under current law.

The bill also prohibits a local government from enacting an ordinance or adopting a resolution authorizing the local government to construct, own, or operate any facility for providing cable television service, telecommunications service, or Internet access service, directly or indirectly to the public, unless certain requirements are satisfied. First, the local government must hold a public hearing and provide at least three notices of the hearing. Second, the local government must prepare a report estimating the total costs of, and revenues derived from, constructing, owning, or operating the facility. The report must include a cost-benefit analysis of the facility for a period of at least three years. At least 30 days before the public hearing, the local government must make the report available for public inspection.

For further information see the *state and 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.** 66.0419 (3m) of the statutes is created to read:

2 **66.0419 (3m)** LOCAL GOVERNMENT CABLE TELEVISION SYSTEM COSTS. Except for
3 costs for any of the following, a municipality or county that owns and operates a cable
4 television system, or an entity owned or operated, in whole or in part, by such a
5 municipality or county, may not require nonsubscribers of the cable television system
6 to pay any of the costs of the cable television system:

7 (a) Public, educational, and governmental access channels.

8 (b) Debt service on bonds issued under s. 66.0619 to finance the construction,
9 renovation, or expansion of a cable television system.

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1 **SECTION 2.** 66.0422 of the statutes is created to read:

2 **66.0422 Cable television, telecommunications, and Internet access**
3 **facilities. (1)** In this section:

4 (a) “Cable service” has the meaning given in s. 66.0419 (2) (c).

5 (b) “Local government” means a county, city, village, or town.

6 (c) “Telecommunications service” has the meaning given in s. 196.01 (9m).

7 **(2)** No local government may enact an ordinance or adopt a resolution
8 authorizing the local government to construct, own, or operate any facility for
9 providing cable service, telecommunications service, or Internet access service,
10 directly or indirectly, to the public, unless all of the following are satisfied:

11 (a) The local government holds a public hearing on the proposed ordinance or
12 resolution.

13 (b) Notice of the public hearing is given by publication of a class 3 notice under
14 ch. 985 in the area affected by the proposed ordinance or resolution.

15 (c) No less than 30 days before the public hearing, the local government
16 prepares and makes available for public inspection a report estimating the total costs
17 of, and revenues derived from, constructing, owning, or operating the facility and
18 including a cost–benefit analysis of the facility for a period of at least 3 years. The
19 costs that are subject to this paragraph include personnel costs and costs of
20 acquiring, installing, maintaining, repairing, or operating any plant or equipment,
21 and include an appropriate allocated portion of costs of personnel, plant, or
22 equipment that are used to provide jointly both telecommunications services and
23 other services.

24 **SECTION 3.** 196.203 (1) of the statutes is amended to read:

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1 196.203 (1) ~~Except as provided in this section, alternative~~ Alternative
2 telecommunications utilities are exempt from all provisions of ch. 201 and this
3 chapter, except as provided in this section and except that an alternative
4 telecommunications utility that is a local government telecommunications utility, as
5 defined in s. 196.204 (5) (ag) 1., is subject to s. 196.204 (5).

6 **SECTION 4.** 196.204 (5) (a) of the statutes is renumbered 196.204 (5) (ar) and
7 amended to read:

8 196.204 (5) (ar) In addition to the other requirements of this section, each
9 telecommunications service, relevant group of services, and basic network function
10 offered or used by a telecommunications utility shall be priced to exceed its total
11 service long-run incremental cost. For a local government telecommunications
12 utility, such total service long-run incremental cost shall take into account, by
13 imputation or allocation, equivalent charges for all taxes, pole rentals, rights of way,
14 licenses, and similar costs that are incurred by nongovernmental
15 telecommunications utilities. The commission may waive the applicability of this
16 paragraph to a nongovernmental telecommunications utility's basic local exchange
17 service if the commission determines that a waiver is consistent with the factors
18 under s. 196.03 (6).

19 **SECTION 5.** 196.204 (5) (ag) of the statutes is created to read:

20 196.204 (5) (ag) In this subsection:

21 1. "Local government telecommunications utility" means a municipality or
22 county that owns, operates, manages, or controls any plant or equipment, or that
23 wholly owns, operates, manages, or controls any entity that owns, operates,
24 manages, or controls any plant or equipment, used to furnish telecommunications
25 services within the state directly or indirectly to the public.

