



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Appendix B

Date Transfer Requested: 04/13/2007 (Per: MDK)



The 2007 drafting file for
LRBa0226/1 (transferred)



LRBa0227/1 (transferred)

LRBa0228/1 (transferred)

LRBa0259/1 (transferred)


LRBa0283/2 (transferred)

LRBa0285/1 (transferred)

LRBa0291/1 (transferred)

where used to create ...

LRB 07s0061

 The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were added, as an appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2007 DRAFTING REQUEST

Assembly Amendment (AA-AB207)

Received: **03/22/2007**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Phil Montgomery (608) 266-5840**

By/Representing: **Adam**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - telco**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Montgomery@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Definition of large telecommunications video service provider

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>
/?							
/1	mkunkel 03/23/2007	kfollett 03/23/2007	rschluet 03/23/2007	_____	mbarman 03/23/2007	mbarman 03/23/2007	

FE Sent For:

<END>

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Local broadcasting stations

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/?	mkunkel	1/kif 3/23		_____	_____	_____	_____

FE Sent For:

<END>

Kunkel, Mark

From: Raschka, Adam
Sent: Tuesday, March 20, 2007 12:00 PM
To: Kunkel, Mark
Subject: Amendments to Irb 1914/3

Attachments: Michigan.degregation.must carry.pdf; redefine large telecommunications.doc

Mark,

Could we have each of these drafted individually? We may want to combine them into a sub later.

The first addresses some concerns broad by the broadcasters regarding degradation of signal and must carry. Attached is language which passed in Michigan. It begins on page 9 line 25 through page 11 line 2 and then also page 11 lines 5-8.



Michigan.degregati
on.must carr...

This is just a minor technical change. Pretty self explanatory.



redefine large
telecommunicati...

Finally, I'm not sure how we do this, but we have floated around the idea of an alternative to PEG channels. Providing municipalities to put their programming on-line rather than on a channel. Is there a way to do this?

Thanks,

Adam

Adam Raschka

Office of Representative Phil Montgomery
Chair - Assembly Energy & Utilities Committee
608-266-5840

Kunkel, Mark

From: Kunkel, Mark
Sent: Tuesday, March 20, 2007 3:39 PM
To: Raschka, Adam
Subject: RE: Amendments to lrb 1914/3

Regarding the must carry language from Michigan (page and line numbers refer to the Michigan legislation):

- Page 9, lines 26 to 27 refer to the signals of "the" local broadcast station. Shouldn't it refer to "any" local broadcast station?
- Page 10, lines 2 to 3 refer to a "low power station unless the station is a qualified low power station as defined under 47 USC 534 (h) (2)". The cited federal law defines a "qualified low power station". However, I'm not sure what a "low power station" is. Is there a definition available somewhere?
- Page 10, lines 8 to 11 use the terms "mandatory carriage" (which is something that is granted) and "retransmission consent" (which is something that may be requested). What do those terms mean?
- Page 10, lines 13 to 15 provide: "A provider is not required to provide a television station valuable consideration in exchange for the carriage." Why not state instead that a provider is not required to compensate a television station for the carriage?
- Page 11, lines 5 to 6: I assume that the foregoing provisions of the Michigan law should only apply to a video service provider that is not an incumbent cable operator, as defined in the bill. Is that correct?

Regarding the PEG channels, I'm not sure what you want to do. The bill is drafted based on the assumption that video service providers have to provide channel capacity for PEG channels. If you require municipalities to broadcast PEG channels over the Internet, video service providers wouldn't play any role in that, correct? If so, you would probably want to delete all of the provisions of the bill that deal with PEG channels, and prohibit municipalities from imposing any PEG channels on video service providers. Is that what you want to do?

-- Mark

From: Raschka, Adam
Sent: Tuesday, March 20, 2007 12:00 PM
To: Kunkel, Mark
Subject: Amendments to lrb 1914/3

Mark,

Could we have each of these drafted individually? We may want to combine them into a sub later.

The first addresses some concerns broad by the broadcasters regarding degradation of signal and must carry. Attached is language which passed in Michigan. It begins on page 9 line 25 through page 11 line 2 and then also page 11 lines 5-8.

<< File: Michigan.degregation.must carry.pdf >>
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<< File: redefine large telecommunications.doc >>

Finally, I'm not sure how we do this, but we have floated around the idea of an alternative to PEG channels. Providing municipalities to put their programming on-line rather than on a channel. Is there a way to do this?

Thanks,

Adam
Adam Raschka

Office of Representative Phil Montgomery
Chair - Assembly Energy & Utilities Committee
608-266-5840

1 compatible with the technology or protocol utilized by the provider
2 to deliver services.

3 (4) A video service provider may request that an incumbent
4 video provider interconnect with its video system for the sole
5 purpose of providing access to video programming that is being
6 provided over public, education, and government channels for a
7 franchising entity that is served by both providers. Where
8 technically feasible, interconnection shall be allowed under an
9 agreement of the parties. The video service provider and incumbent
10 video provider shall negotiate in good faith and may not
11 unreasonably withhold interconnection. Interconnection may be
12 accomplished by any reasonable method as agreed to by the
13 providers. The requesting video service provider shall pay the
14 construction, operation, maintenance, and other costs arising out
15 of the interconnection, including the reasonable costs incurred by
16 the incumbent provider.

17 (5) The person producing the broadcasts is solely responsible
18 for all content provided over designated public, education, or
19 government channels. A video service provider shall not exercise
20 any editorial control over any programming on any channel designed
21 for public, education, or government use.

22 (6) A video service provider is not subject to any civil or
23 criminal liability for any program carried on any channel
24 designated for public, education, or government use.

25 (7) Except as otherwise provided in subsection (8), a provider
26 shall provide subscribers access to the signals of the local
27 broadcast television station licensed by the federal communications

1 commission to serve those subscribers over the air. This section
2 does not apply to a low power station unless the station is a
3 qualified low power station as defined under 47 USC 534(h)(2). A
4 provider is required to only carry digital broadcast signals to the
5 extent that a broadcast television station has the right under
6 federal law or regulation to demand carriage of the digital
7 broadcast signals by a cable operator on a cable system.

8 (8) To facilitate access by subscribers of a video service
9 provider to the signals of local broadcast stations under this
10 section, a station either shall be granted mandatory carriage or
11 may request retransmission consent with the provider.

12 (9) A provider shall transmit, without degradation, the
13 signals a local broadcast station delivers to the provider. A
14 provider is not required to provide a television station valuable
15 consideration in exchange for carriage.

16 (10) A provider shall not do either of the following:

17 (a) Discriminate among or between broadcast stations and
18 programming providers with respect to transmission of their
19 signals, taking into account any consideration afforded the
20 provider by the programming provider or broadcast station. In no
21 event shall the signal quality as retransmitted by the provider be
22 required to be superior to the signal quality of the broadcast
23 stations as received by the provider from the broadcast television
24 station.

25 (b) Delete, change, or alter a copyright identification
26 transmitted as part of a broadcast station's signal.

27 (11) A provider shall not be required to utilize the same or

1 similar reception technology as the broadcast stations or
2 programming providers.

3 (12) A public, education, or government channel shall only be
4 used for noncommercial purposes.

5 (13) Subsections (7) to (11) apply only to a video service
6 provider that delivers video programming in a video service area
7 where the provider is not regulated as a cable operator under
8 federal law.

9 (14) If a franchising entity seeks to utilize capacity
10 designated under subsection (1) or an agreement under section 13 to
11 provide access to video programming over 1 or more public,
12 governmental, and education channels, the franchising entity shall
13 give the provider a written request specifying the number of
14 channels in actual use on the incumbent video provider's system or
15 specified in the agreement entered into under section 13. The video
16 service provider shall have 90 days to begin providing access as
17 requested by the franchising entity.

18 Sec. 5. (1) As of the effective date of this act, no existing
19 franchise agreement with a franchising entity shall be renewed or
20 extended upon the expiration date of the agreement.

21 (2) The incumbent video provider, at its option, may continue
22 to provide video services to the franchising entity by electing to
23 do 1 of the following:

24 (a) Terminate the existing franchise agreement before the
25 expiration date of the agreement and enter into a new franchise
26 under a uniform video service local franchise agreement.

27 (b) Continue under the existing franchise agreement amended to



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa0226/1
MDK:...

O-NOTE

ASSEMBLY AMENDMENT,
TO 2007 ASSEMBLY BILL 207

Today
3pm

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 26, line 10: after that line insert:
- 3 "(9m) LOCAL BROADCAST STATIONS. (a) In this subsection, a "noncable video
- 4 service provider" means a video service provider that is not a cable operator.
- 5 (b) If a local broadcast station is authorized to exercise against a cable operator
- 6 the right to require mandatory carriage under 47 USC 534, or the right to grant or
- 7 withhold retransmission consent under 47 USC 325 (b), the local broadcast station
- 8 may exercise the same right against a noncable video service provider to the same
- 9 extent as the local broadcast station may exercise such right against a cable operator
- 10 under federal law.
- 11 (c) A noncable video service provider shall transmit, without degradation, the
- 12 signals that a local broadcast station delivers to the noncable video service provider,

1 but is not required to utilize the same or similar reception technology as the local
2 broadcast station or the programming providers of the local broadcast station.

3 (d) A noncable video service provider may not do any of the following:

4 1. Discriminate among or between local broadcast stations, or programming
5 providers of local broadcast stations, with respect to the transmission of their
6 signals.

7 2. Delete, change, or alter a copyright identification transmitted as part of a
8 local broadcast station's signal.”

9 (END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0226/1dn

MDK: *kjf*

Date

Rep. Montgomery:

This amendment is based on the Michigan legislation that you provided. Please note the following:

1. Proposed s. 660.0420 (9m) (b) is intended to achieve the same result as subs. (7) and (8) of the Michigan legislation, which I found to be a little confusing.

2. I thought about creating a definition for "local broadcast station" but federal law does not appear to use consistent terminology regarding this issue. (For example, 47 USC 534 (a) refers to "local commercial television stations and qualified low power stations," and 47 USC 325 (b) refers to a "television broadcast station.") However, because the amendment refers to specific provisions of federal law, a definition is probably not necessary.

3. The ^{second} 2nd sentence of sub. (9) of the Michigan legislation appears to be inconsistent with federal law, so I didn't include it. That sentence states that a provider "is not required to provide a television station valuable consideration in exchange for carriage." However, under the federal regulatory scheme, aren't certain local broadcast stations allowed to negotiate the granting of retransmission consent, and don't some negotiations result in a provider compensating such stations?

4. I put sub. (11) of the Michigan legislation into proposed s. 66.0420 (9m) (c), and referred to programming providers as the "programming providers of the local broadcast station." I made a similar reference to "programming providers of local broadcast stations" in proposed s. 66.0420 (9m) (d) 1. Is that okay?

5. I did not include the following phrase in the ^{first} 1st sentence of sub. (10) (a) of the Michigan legislation because I don't know what it means: "taking into account any consideration afforded the provider by the programming provider or broadcast station." What does "taking into account" mean? Does it mean that you can't discriminate, even if you receive consideration, or does it mean you can discriminate, but only if you receive compensation?

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0226/1dn
MDK:kjf:rs

March 23, 2007

Rep. Montgomery:

This amendment is based on the Michigan legislation that you provided. Please note the following:

1. Proposed s. 660.0420 (9m) (b) is intended to achieve the same result as subs. (7) and (8) of the Michigan legislation, which I found to be a little confusing.
2. I thought about creating a definition for "local broadcast station," but federal law does not appear to use consistent terminology regarding this issue. (For example, 47 USC 534 (a) refers to "local commercial television stations and qualified low power stations," and 47 USC 325 (b) refers to a "television broadcast station.") However, because the amendment refers to specific provisions of federal law, a definition is probably not necessary.
3. The second sentence of sub. (9) of the Michigan legislation appears to be inconsistent with federal law, so I didn't include it. That sentence states that a provider "is not required to provide a television station valuable consideration in exchange for carriage." However, under the federal regulatory scheme, aren't certain local broadcast stations allowed to negotiate the granting of retransmission consent, and don't some negotiations result in a provider compensating such stations?
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Mark D. Kunkel
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Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa0227/1
MDK:kjf:rs

**ASSEMBLY AMENDMENT ,
TO 2007 ASSEMBLY BILL 207**

1 At the locations indicated, amend the bill as follows:

2 1. Page 13, line 18: delete "that has" and substitute "that, on January 1, 2007,
3 had".

4 (END)