



JIM DOYLE
GOVERNOR
STATE OF WISCONSIN

December 21, 2007

TO THE HONORABLE MEMBERS OF THE ASSEMBLY:

I have approved Assembly Bill 207 as 2007 Wisconsin Act 42 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto to ensure that consumer protection and customer service standards are protected and to provide for the fair treatment of municipalities and their taxpayers while supporting the right of Wisconsin citizens to cable competition. In particular, I have thoroughly reviewed the measure as it relates to customer service standards and consumer rights to ensure that Wisconsin continues as a leader in protecting the consumer.

Assembly Bill 207 establishes a state process, in lieu of the current process at the municipal level, for granting franchises for the provision of video services to the public. The bill establishes certain requirements related to the following: the relationship between the state franchise agreement and federal telecommunications law; the interaction of franchisees with municipalities on issues such as compensation for video services access and use of rights of way and support for public, educational and government access channels; and the provision of customer service standards and consumer rights.

I am partially vetoing section 8 as it relates to the expiration of a franchise. The intent of my veto is to allow the Department of Financial Institutions (DFI) to promulgate an administrative rule setting the renewal term for the franchise. By allowing franchises to expire and establishing a renewal process and criteria, the public is served by providing more accountability of the service provider and the state.

I am partially vetoing section 8 as it relates to the 15-day requirement for processing the franchise application. First, I am partially vetoing the requirement that DFI has 15 days to review the application. Second, I am partially vetoing the provision that if no determination is made within 15 days, the application is automatically approved. I object to the timeline for approval being written into the law. Placing a time limit on the process pre-judges that all applications will be similar and that investigation of facts may not, in some cases, take additional time. This veto will allow the department to serve both the public and the providers by allowing for both a complete and timely review of applications.

I am partially vetoing section 8 as it relates to the automatic approval of a franchise for large video service providers. I believe that all applicants for a franchise should work through a common application process. As such, all providers would be required to prove that they are legally, financially and technically able to provide service in the

designated service area. Much of the discussion surrounding this legislation centered on allowing greater competition in the video service market. This partial veto ensures that all entrants into the market go through the same process, thus leveling the playing field, which furthers the goal of increased competition.

I am partially vetoing section 8 as it relates to the revocation of a franchise. The veto is designed to allow DFI to more completely define the requirements for franchise revocation through the administrative rule process. A more thorough definition of the revocation requirement will better serve both consumers and providers by adding clarity to these standards.

I am partially vetoing section 8 as it relates to the prohibition on municipalities from charging a fee for the use of or occupation on public rights-of-way. I object to this prohibition directed toward municipalities which provides special treatment to one industry and does not recognize and thus compensate the public for the cost of establishing and maintaining public rights-of-way.

I am partially vetoing section 8 as it relates to the 3-year limit on the review of the financial records of the service provider to allow municipalities to review records as needed. If there is a dispute on the amount of funding being provided, it is in the best interest of all parties to have that dispute settled in a timely manner.

I am partially vetoing section 8 as it relates to the prohibition on DFI and the Department of Agriculture, Trade and Consumer Protection from promulgating rules. It is imperative that the state agencies responsible for implementing the state franchise and enforcing anti-discrimination provisions have the ability to interpret these statutes through administrative rule.

I am partially vetoing section 8 as it relates to a video service provider's defense against not meeting the prohibition for income discrimination by establishing statutory standards of service provisions to low-income households. The intent of the veto is to raise the standard to be achieved more quickly. This veto will allow service providers to use a defense against allegations of discrimination based on income by showing that 30 percent of subscribers are low-income households within 3 years, two years earlier than originally provided in the bill. The effect of the veto will be to accelerate the provision of service to low-income households.

I am partially vetoing section 8 as it relates to the definition of a low-income household. The effect is to allow DFI to define low-income household through administrative rule. As written, the bill provides a definition that does not take into account factors such as inflation or household size. Such a definition is inconsistent with the definition of low-income in other programs.

I am partially vetoing section 8 as it relates to the definition of public, educational and government channel usage. As written, the bill states that such channels are defined as noncommercial. By striking noncommercial, I am giving public, educational and governmental channels the ability to air revenue-generating commercial programming.

I am partially vetoing section 8 as it relates to the application and annual fees. The effect is to allow DFI to set the fees through rule which allows the fees to better fit the scope of the specific conditions of an application.

I am partially vetoing section 27p as it relates to credit for service outage. My intent is that the bill reflects the current law standard that if service is interrupted for more than 4 hours in any one day, the video service provider must give subscribers credit for that outage. As passed, the bill would have allowed interruptions of up to 24 hours without providing credit and would have eroded one of the primary statutory consumer protections.

I am partially vetoing section 35 as it relates to Public Service Commission review of municipal regulation of the occupation and use of public rights-of-way. The provision prohibits the Commission from finding unreasonable any municipal regulation on aesthetics of a network under certain conditions. The intent of this partial veto is to delete this prohibition and allow the Commission to review the regulation and make a determination based on the merits.

I also carefully reviewed Assembly Bill 207 as it relates to public, educational and governmental channels in light of the concerns raised by interested parties on this matter. The bill requires that these channels continue as long as minimum criteria are met. Financial support of these channels by video service providers ends after three years under the bill. The intent of the bill is that the payment to the municipalities by video service providers of up to five percent of their gross receipts provides sufficient compensation for this access right.

While I did not exercise my partial veto authority in this part of the bill, I remain concerned about maintaining balance between the interests served by public, educational and governmental channels and video service providers. I urge the Legislature to review this issue and consider follow-up legislation to address any remaining concerns.

I believe the partial vetoes I have made to AB 207 help to make it a stronger bill for consumers while promoting competition in Wisconsin.

Respectfully submitted,

JIM DOYLE
Governor