

Kunkel, Mark

From: Stafford, Beau
Sent: Wednesday, January 27, 2016 3:42 PM
To: Kunkel, Mark
Cc: Kathleen Vinehout; Vinehout, Kathleen
Subject: FW: PEG Channel Bill
Attachments: 15-4426_P1.pdf; 15-4426_P1dn.pdf

Mark -

We had Mary Cardona from WI Community Media give us some feedback on the bill. Kathleen and Mary went through her feedback and they boiled down their changes/questions to the following offered in Mary's email below:

- ✓ Under #3: Kathleen would like to delete 66.0420 (5)(a) 2. b. and c. *RP*
 - ✓ Wants to fix #4. *Am 66.0420(5)(c)1*
 - ✓ Wants to fix #5. *alt phrase*
 - ✓ Question about #6: What is the effect of striking lines p.3 line 23 to p.4 line 3? *disc code numbers*
 - ✓ Question about #7: Why was "transmission facilities" added? Should we add more to this to ensure it meets our intention? *66.0420 (5)(d) 1 → check file*
 - ✓ Wants to fix #9. ✓
 - ✓ Wants to fix #10, but only with the suggestion found under #1: "Not later than 90 days after the date of a request from a municipality, the video provider or interim cable operator shall enable the municipality's PEG channel schedule to be present on an ongoing basis on the Electronic Program Guide with the same functionality as the commercial broadcast channels. The arrangement can be made by the interim cable operator or video provider or through a third party vendor." *Revise 66.0420(5)(d)1.*
- § RN § AM 66.0420(5)*
- par.(d) (a)2.a.*
- 36.0420 (5)(c) 3.a. ↓ check file*

As for the questions in your drafter's note:

- 1) I think Kathleen wants to keep the date for the fee. *OK as is*
- 2) I think it makes sense to eliminate the reference to ICO's as long as there aren't any left. *OK as is*
- 3) No problem about the missing sections. Makes sense to me. *OK as is per subseq conversation*

Let me know if anything is unclear on any of this Mark. I also cc'ed Kathleen so she can help answer any of your questions.

Thanks Mark!

BEAU STAFFORD
Legislative Assistant
Office of Senator Kathleen Vinehout
beau.stafford@legis.wisconsin.gov
608-266-8546
Rm 108 South
Wisconsin State Capitol

From: Mary Cardona, WCM [mailto:exec@wisconsincommunitymedia.com]
Sent: Wednesday, January 27, 2016 10:38 AM
To: Stafford, Beau <Beau.Stafford@legis.wisconsin.gov>
Subject: Re: PEG Channel Bill

Beau,

The highlighted in red sections are quick fixes needed. Re my #10, I don't know if you should include this and I've offered some other options to this.

1. Mark refers to "Incumbent" cable operators. The term is actually "Interim." While it's not brought up in the Analysis section, it was up to the cable operator to decide whether they would opt out of a local franchise agreement (even if the franchise term was not up) or get a state franchise with DFI.

I have never heard about any cable operator that opted to continue serving a municipality under a local franchise agreement as an "interim cable operator." Time Warner, Charter, and Comcast all opted to go with a state franchise. I estimate that they serve more than 90% of the population.

DFI has a Directory of State-Issued Certificates of Franchise Authority listing companies that have applied and gotten a state franchise. It's the last PDF under Initial Video Service Franchise Rule on their website: <https://www.wdfi.org/corporations/VideoFranchise.htm> (This is all DFI has. There is no searchable database. Also, this is a list of areas companies have gotten *permission* to serve. DFI does not know if they actually serve all of these areas. I'll send you a copy of an email exchange I had with George Petak about this.)

It would certainly make the bill easier to read if you did not use both terms – video provider and interim cable operator.

2. Page 2 Line 2 Section (5)(a) 3.

The change to 100% shouldn't be a big deal for Charter, which is all-digital. Time Warner's system is still a hybrid and some customers still need a box to view the unscrambled digital PEG channels. I believe the FCC has said this should be a minimal fee (like \$1 to \$2). I don't know what Time Warner charges, though.

3. Page 2 Line 6 etc. Section (5) (b) 1. a.

This is a nice deletion for PEG. I do not know of any PEG channel that has been deleted from a system by an operator for underutilization.

I have been getting questions from communities and counties that want to start a cable access channel. I tell them (virtually) no new channels can be established under current law due to Section (5)(a) 2. b. and c. This language was not passed in all states that passed state franchise legislation. Brown County is looking for underutilized channels in the area to take over as its own. Wood County would like its own channel.

This also raises a question about whether we should insert "counties" into the statute.

4. Page 3 Line 7 Section (5) (c) 1.

I think you may want to add (5)(d) 1. to that list since you are adding that section that would require operators to provide equipment for transmitting PEG programming.

5. Page 3 Line 17

Insert "the municipality may" before "submit."

6. Page 3 Lines 23 - Page 4 line 3.

Is this needed? Does it mean that a municipality must provide access to its origination point so that the company can install any equipment needed there? There's no problem with that.

7. Page 4 Lines 9 and 18-19.

Not sure why "transmission facilities" was added. That's a vague term... if you added an adjective to that to be clear it has the same function as a headend or hub office I would feel more comfortable. For example say "or an equivalent transmission facility." I want to be sure they are connecting the origination point to a spot in the system that enables the signal to go out over the subscriber network -- nothing short of that.

8. Thank you for the changes in (5)(d) 1. The way Charter has gotten around the intention of this section for years has been a source of great frustration for me.

9. Page 5 line 8.

It seems to need a "the" before "accessibility..."

10. Page 5 lines 19 - 22.

I think this is going to be a big uphill battle. Per federal law, PEG channels are to be on the basic tier of service. Historically, it has been up to operators to determine *where* on the basic tier the channels are located. In the early days of cable "basic" meant the first dozen channels or so. Now operators provide many more channels in positions all over the line-up in the "basic" tier. It's a problem. However, it's been argued that *telling an operator what channel to put PEG on infringes on their first amendment rights.*

What about this instead:

1. Not later than 90 days after the date of a request from a municipality, the video provider or interim cable operator shall enable the municipality's PEG channel schedule to be present on an ongoing basis on the Electronic Program Guide with the same functionality as the commercial broadcast channels. The arrangement can be made by the interim cable operator or video provider or through a third party vendor.

The video provider or interim cable operator shall provide any equipment necessary at the origination point in order for the channel to be carried on the EPG and cover any ongoing costs of carriage on the EPG using a channel name agreeable to the municipality.

2. Should the interim cable operator or video service provider provide the channel capacity for any PEG channel on a channel number that is not within 10 numerically of the channel number of any local commercial television station or network-affiliated commercial television station specified in subd. 3. a. or b. then the video provider or interim cable operator shall, on a quarterly basis, underwrite the cost of producing, copying, and mailing a PEG channel promotional piece to its subscribers. The municipality would have the responsibility for the content of the promotional piece and final approval of the design.

3. If a video provider or interim cable operator moves a PEG channel to a new location, the video provider or interim cable operator shall underwrite the cost of promoting the new location and rebranding up to \$5,000.

11. Page 5 lines 23 – 25

You may want to put a top limit on this rather than say none. I think the FCC rules they can charge a minimal fee. You might say no more than \$2, for example.

Other food for thought:

DFI says it has no enforcement powers. That's true. Channels are experiencing reception problems and they have nowhere to go except to complain to the company. Problems do get resolved, but sometimes not in a timely way and sometimes problems are ongoing and chronic. Problems are caused by compressing the signal too much or a weak signal to a customer's television.

DFI refers all complaints to DATCP, which logs them in a complaint file. DFI has no staff to follow up on anything.

Also, under federal law, needs assessments were required to determine whether or not the needs and interests of the community were being met. Wisconsin's law is static.

Most PEG stations shoot in HD, but only two independent companies, TCC in Trempealeau and Solarus in Wisconsin Rapids offer this.

School buildings and other municipal buildings generally now have to pay for cable service.

I'll work on some stories for your memo now.

Mary

Mary Cardona
Executive Director
Wisconsin Community Media
exec@wisconsincommunitymedia.com
608-215-5594
www.wisconsincommunitymedia.com

On Jan 22, 2016, at 11:53 AM, Stafford, Beau wrote:

Mary –

Thank you very much for chatting with me about the state of PEG channels in Wisconsin. I attached the bill and the drafter's notes for you to look over. Please let us know if you have any other suggestions for the bill or any insight into the drafter's questions.

Also, the anecdotes you shared while we were on the phone were incredibly powerful, so please feel free to include them for us to use in the co-sponsorship memo. I pasted the first draft of the co-sponsorship, but it could use some work yet. Please let me know if you have any suggestions.

Thanks again Mary – we really appreciate the help.

BEAU STAFFORD
Legislative Assistant
Office of Senator Kathleen Vinehout
beau.stafford@legis.wisconsin.gov
608-266-8546
Rm 108 South
Wisconsin State Capitol

To: Legislative Colleagues
From: Sen. Kathleen Vinehout and Rep. Gary Hebl
Re: Co-sponsorship of LRB 4426/1: Restoring WI PEG Channels
Date: [Insert Date]
Deadline: 5pm [insert date]

During the 2007-2008 session, the legislature passed 2007 AB 207 which became 2007 WI Act 42. This law, also known as the “cable deregulation bill,” made significant changes to the way PEG (Public, Education, and Government) channels are offered and funded.

The requirement for video service providers or interim cable operators to provide monetary support to municipalities for access facilities for PEG channels was sunsetted out as of July 1st, 2011. Since that time, community programming has suffered throughout Wisconsin.

[Add examples]

LRB 4426/1 will restore the ability of municipalities to require video service providers and interim cable operators to pay a fee for PEG channels. The fee would require an ordinance by each municipality and it can be equal to or less than 1% of a service providers annual gross receipts.

This bill switches the requirement from municipalities to service providers for ensuring technological compatibility for PEG channel programming. Service providers would also be required to provide the capacity for PEG channels with no additional cost to consumers. The functionality, audio and visual quality of PEG channels will be equivalent to commercial channels.

Providing public access channels to consumers is the right thing to do, and it will enrich the lives of Wisconsin citizens. Television is one of the best methods for communicating important news and publicizing events in the community. PEG channels provide that crucial link between a community and its members.

To co-sponsor this legislation, please **reply to this email or call Sen. Vinehout’s office or Rep. Hebl’s office by 5:00 PM on [Insert Date].**

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 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; and 3) provide facilities adequate to carry signals for PEG channels without material degradation, alteration, or removal of PEG channel content. Also, the bill imposes requirements on the channel numbers used for PEG channels and 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.

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

Kunkel, Mark

From: Stafford, Beau
Sent: Friday, January 29, 2016 3:35 PM
To: Kunkel, Mark
Subject: RE: PEG Channel Bill Drafting Questions

That is perfect – thanks Mark!

Heave a great weekend.

BEAU STAFFORD

Legislative Assistant
Office of Senator Kathleen Vinehout
beau.stafford@legis.wisconsin.gov
608-266-8546
Rm 108 South
Wisconsin State Capitol

From: Kunkel, Mark
Sent: Friday, January 29, 2016 3:25 PM
To: Stafford, Beau <Beau.Stafford@legis.wisconsin.gov>
Subject: RE: PEG Channel Bill Drafting Questions

Beau:

I think I have enough info for the next version. I was a little concerned about clarifying the reference to “electronic program guide” in one your items, but after doing some Internet searches, it looks like it’s a pretty well understood term, so I think it is okay to use as is.

I can get the next version to you early next week, possibly by Monday. Is that okay?

--Mark

From: Stafford, Beau
Sent: Friday, January 29, 2016 3:16 PM
To: Kunkel, Mark <Mark.Kunkel@legis.wisconsin.gov>
Subject: FW: PEG Channel Bill Drafting Questions

Alright Mark! I think we are good to go with the rest of the feedback on #6 and #7. See Mary’s comments below.

Are there any other things that we need to discuss before we do a /2?

Thanks for all your help and patience on this Mark.

BEAU STAFFORD

Legislative Assistant
Office of Senator Kathleen Vinehout
beau.stafford@legis.wisconsin.gov
608-266-8546
Rm 108 South
Wisconsin State Capitol

From: Mary Cardona, WCM [<mailto:exec@wisconsincommunitymedia.com>]
Sent: Friday, January 29, 2016 2:32 PM
To: Stafford, Beau <Beau.Stafford@legis.wisconsin.gov>
Subject: Re: PEG Channel Bill Drafting Questions

Hi Beau,

The comments from Mark sound good to me. Delete sentence referred to in #6 and insert "equivalent" in transmission facilities.

I doubt if there are any interims left, but I know Kathleen was thinking deleting "interim" throughout the bill would be a lot to do for this revision. I'd agree with that -- keep it.

Thanks! This IS moving quickly!

Mary

Mary Cardona
Executive Director
Wisconsin Community Media
exec@wisconsincommunitymedia.com
608-215-5594
www.wisconsincommunitymedia.com

On Jan 29, 2016, at 2:25 PM, Stafford, Beau wrote:

Mary –

I think we are getting close to a new draft of the PEG Channel Bill. I just want to make sure you saw this feedback we received from the drafter. Kathleen asked questions about #6 and & #7 of your email. Do you have any insight? Do we need to fix anything relating to those two issues?

I think this is record time for getting a complex bill done in a week's time☺ Thank you for all your help on this!

BEAU STAFFORD
Legislative Assistant
Office of Senator Kathleen Vinehout
beau.stafford@legis.wisconsin.gov
608-266-8546
Rm 108 South
Wisconsin State Capitol

From: Kunkel, Mark
Sent: Thursday, January 28, 2016 2:16 PM
To: Stafford, Beau <Beau.Stafford@legis.wisconsin.gov>

Cc: Kathleen Vinehout <kathleen@riverland.org>; Vinehout, Kathleen
<Kathleen.Vinehout@legis.wisconsin.gov>

Subject: RE: PEG Channel Bill

Beau:

Regarding #6, I assume you are referring to the sentence that begins, "If an interim cable operator...." That language is based on an Illinois law that was used for drafting 2007 SSA-1 to 2007 AB 207, which was enacted as 2007 act 42. (That 2007 substitute amendment was used to draft 2009 AB 606, which was the companion to 2009 SB-582, and your current draft is based on that 2009 Senate bill.) Similar language can be found in 220 ILCS 5/21-601 (b). The sentence imposes a duty on a municipality to provide reasonable access so that a video service provider (VSP) can make PEG channel content or programming compatible with the VSP's technology. If you don't think there is a need to impose that duty, then you could delete the sentence. It looks like Mary Cardona thinks that reasonable access is not a problem, so the sentence might not be necessary.

Regarding item #7, I agree that "transmission facilities" is a vague term. I'm not sure why it was added, but it originated from a July 16, 2009 memo from Mary to Rep. Hebl which can be found in the drafting file for 2009 AB 606. (See the attached PDF pages.) The memo proposed replacing the references to headend and video hub office with a reference to transmission facilities in the right-of-way. I must have talked to someone who instructed me to make changes to the memo and refer to headend, video hub office, or transmission facility. However, the drafting file doesn't indicate who made that instruction. In any event, you could take Mary's suggestion and refer to "equivalent" transmission facilities so that a transmission facility must have the same use a headend or video office hub.

Regarding my drafter's note #2, I should have referred to interim cable operators, not incumbents. I have not been able to confirm that there are no longer any interim cable operators, so I would retain the reference in proposed s. 66.0420 (7) (es). However, if want to delete it, let me know.

--Mark

From: Stafford, Beau

Sent: Wednesday, January 27, 2016 3:42 PM

To: Kunkel, Mark <Mark.Kunkel@legis.wisconsin.gov>

Cc: Kathleen Vinehout <kathleen@riverland.org>; Vinehout, Kathleen
<Kathleen.Vinehout@legis.wisconsin.gov>

Subject: FW: PEG Channel Bill

Mark –

We had Mary Cardona from WI Community Media give us some feedback on the bill. Kathleen and Mary went through her feedback and they boiled down their changes/questions to the following offered in Mary's email below:

- Under #3: Kathleen would like to delete 66.0420 (5)(a) 2. b. and c.
- Wants to fix #4.
- Wants to fix #5.
- Question about #6: What is the effect of striking lines p.3 line 23 to p.4 line 3?
- Question about #7: Why was "transmission facilities" added? Should we add more to this to ensure it meets our intention?
- Wants to fix #9.
- Wants to fix #10, but only with the suggestion found under #1: *"Not later than 90 days after the date of a request from a municipality, the video provider or interim*

cable operator shall enable the municipality's PEG channel schedule to be present on an ongoing basis on the Electronic Program Guide with the same functionality as the commercial broadcast channels. The arrangement can be made by the interim cable operator or video provider or through a third party vendor."

As for the questions in your drafter's note:

- 1) I think Kathleen wants to keep the date for the fee.
- 2) I think it makes sense to eliminate the reference to ICO's as long as there aren't any left.
- 3) No problem about the missing sections. Makes sense to me.

Let me know if anything is unclear on any of this Mark. I also cc'ed Kathleen so she can help answer any of your questions.

Thanks Mark!

BEAU STAFFORD

Legislative Assistant
Office of Senator Kathleen Vinehout
beau.stafford@legis.wisconsin.gov
608-266-8546
Rm 108 South
Wisconsin State Capitol

From: Mary Cardona, WCM [<mailto:exec@wisconsincommunitymedia.com>]
Sent: Wednesday, January 27, 2016 10:38 AM
To: Stafford, Beau <Beau.Stafford@legis.wisconsin.gov>
Subject: Re: PEG Channel Bill

Beau,

The highlighted in red sections are quick fixes needed. Re my #10, I don't know if you should include this and I've offered some other options to this.

1. Mark refers to "Incumbent" cable operators. The term is actually "Interim." While it's not brought up in the Analysis section, it was up to the cable operator to decide whether they would opt out of a local franchise agreement (even if the franchise term was not up) or get a state franchise with DFI.

I have never heard about any cable operator that opted to continue serving a municipality under a local franchise agreement as an "interim cable operator." Time Warner, Charter, and Comcast all opted to go with a state franchise. I estimate that they serve more than 90% of the population.

DFI has a Directory of State-Issued Certificates of Franchise Authority listing companies that have applied and gotten a state franchise. It's the last PDF under Initial Video Service Franchise Rule on their website: <https://www.wdfi.org/corporations/VideoFranchise.htm> (This is all DFI has. There is no searchable database. Also, this is a list of areas companies have gotten *permission* to serve. DFI does not know if they actually serve all of these areas. I'll send you a copy of an email exchange I had with George Petak about this.)

It would certainly make the bill easier to read if you did not use both terms – video provider and interim cable operator.

2. Page 2 Line 2 Section (5)(a) 3.

The change to 100% shouldn't be a big deal for Charter, which is all-digital. Time Warner's system is still a hybrid and some customers still need a box to view the unscrambled digital PEG channels. I believe the FCC has said this should be a minimal fee (like \$1 to \$2). I don't know what Time Warner charges, though.

3. Page 2 Line 6 etc. Section (5) (b) 1. a.

This is a nice deletion for PEG. I do not know of any PEG channel that has been deleted from a system by an operator for underutilization.

I have been getting questions from communities and counties that want to start a cable access channel. I tell them (virtually) no new channels can be established under current law due to Section (5)(a) 2. b. and c. This language was not passed in all states that passed state franchise legislation. Brown County is looking for underutilized channels in the area to take over as its own. Wood County would like its own channel.

This also raises a question about whether we should insert "counties" into the statute.

4. Page 3 Line 7 Section (5) (c) 1.

I think you may want to add (5)(d) 1. to that list since you are adding that section that would require operators to provide equipment for transmitting PEG programming.

5. Page 3 Line 17

Insert "the municipality may" before "submit."

6. Page 3 Lines 23 - Page 4 line 3.

Is this needed? Does it mean that a municipality must provide access to its origination point so that the company can install any equipment needed there? There's no problem with that.

7. Page 4 Lines 9 and 18-19.

Not sure why "transmission facilities" was added. That's a vague term... if you added an adjective to that to be clear it has the same function as a headend or hub office I would feel more comfortable. For example say "or an equivalent transmission facility." I want to be sure they are connecting the origination point to a spot in the system that enables the signal to go out over the subscriber network -- nothing short of that.

8. Thank you for the changes in (5)(d) 1. The way Charter has gotten around the intention of this section for years has been a source of great frustration for me.

9. Page 5 line 8.

It seems to need a "the" before "accessibility..."

10. Page 5 lines 19 - 22.

I think this is going to be a big uphill battle. Per federal law, PEG channels are to be on the basic tier of service. Historically, it has been up to operators to determine *where* on the basic tier the channels are located. In the early days of cable "basic" meant the first dozen channels or so. Now operators provide many more channels in positions all over the line-up in the "basic"

tier. It's a problem. However, it's been argued that *telling an operator what channel to put PEG on infringes on their first amendment rights.*

What about this instead:

1. Not later than 90 days after the date of a request from a municipality, the video provider or interim cable operator shall enable the municipality's PEG channel schedule to be present on an ongoing basis on the Electronic Program Guide with the same functionality as the commercial broadcast channels. The arrangement can be made by the interim cable operator or video provider or through a third party vendor.

The video provider or interim cable operator shall provide any equipment necessary at the origination point in order for the channel to be carried on the EPG and cover any ongoing costs of carriage on the EPG using a channel name agreeable to the municipality.

2. Should the interim cable operator or video service provider provide the channel capacity for any PEG channel on a channel number that is not within 10 numerically of the channel number of any local commercial television station or network-affiliated commercial television station specified in subd. 3. a. or b. then the video provider or interim cable operator shall, on a quarterly basis, underwrite the cost of producing, copying, and mailing a PEG channel promotional piece to its subscribers. The municipality would have the responsibility for the content of the promotional piece and final approval of the design.

3. If a video provider or interim cable operator moves a PEG channel to a new location, the video provider or interim cable operator shall underwrite the cost of promoting the new location and rebranding up to \$5,000.

11. Page 5 lines 23 – 25

You may want to put a top limit on this rather than say none. I think the FCC rules they can charge a minimal fee. You might say no more than \$2, for example.

Other food for thought:

DFI says it has no enforcement powers. That's true. Channels are experiencing reception problems and they have nowhere to go except to complain to the company. Problems do get resolved, but sometimes not in a timely way and sometimes problems are ongoing and chronic. Problems are caused by compressing the signal too much or a weak signal to a customer's television.

DFI refers all complaints to DATCP, which logs them in a complaint file. DFI has no staff to follow up on anything.

Also, under federal law, needs assessments were required to determine whether or not the needs and interests of the community were being met. Wisconsin's law is static.

Most PEG stations shoot in HD, but only two independent companies, TCC in Trempealeau and Solarus in Wisconsin Rapids offer this.

School buildings and other municipal buildings generally now have to pay for cable service.

I'll work on some stories for your memo now.

Mary

Mary Cardona
Executive Director
Wisconsin Community Media
exec@wisconsincommunitymedia.com
608-215-5594
www.wisconsincommunitymedia.com

On Jan 22, 2016, at 11:53 AM, Stafford, Beau wrote:

Mary –

Thank you very much for chatting with me about the state of PEG channels in Wisconsin. I attached the bill and the drafter's notes for you to look over. Please let us know if you have any other suggestions for the bill or any insight into the drafter's questions.

Also, the anecdotes you shared while we were on the phone were incredibly powerful, so please feel free to include them for us to use in the co-sponsorship memo. I pasted the first draft of the co-sponsorship, but it could use some work yet. Please let me know if you have any suggestions.

Thanks again Mary – we really appreciate the help.

BEAU STAFFORD
Legislative Assistant
Office of Senator Kathleen Vinehout
beau.stafford@legis.wisconsin.gov
608-266-8546
Rm 108 South
Wisconsin State Capitol

To: Legislative Colleagues
From: Sen. Kathleen Vinehout and Rep. Gary Hebl
Re: Co-sponsorship of LRB 4426/1: Restoring WI PEG Channels
Date: [Insert Date]
Deadline: 5pm [insert date]

During the 2007-2008 session, the legislature passed 2007 AB 207 which became 2007 WI Act 42. This law, also known as the "cable deregulation bill," made significant changes to the way PEG (Public, Education, and Government) channels are offered and funded.

The requirement for video service providers or interim cable operators to provide monetary support to municipalities for access facilities for PEG channels was sunsetted out as of July 1st, 2011. Since that time, community programming has suffered throughout Wisconsin.

[Add examples]

LRB 4426/1 will restore the ability of municipalities to require video service providers and interim cable operators to pay a fee for PEG channels. The fee would require an

ordinance by each municipality and it can be equal to or less than 1% of a service providers annual gross receipts.

This bill switches the requirement from municipalities to service providers for ensuring technological compatibility for PEG channel programming. Service providers would also be required to provide the capacity for PEG channels with no additional cost to consumers. The functionality, audio and visual quality of PEG channels will be equivalent to commercial channels.

Providing public access channels to consumers is the right thing to do, and it will enrich the lives of Wisconsin citizens. Television is one of the best methods for communicating important news and publicizing events in the community. PEG channels provide that crucial link between a community and its members.

To co-sponsor this legislation, please **reply to this email or call Sen. Vinehout's office or Rep. Hebl's office by 5:00 PM on [Insert Date].**

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 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; and 3) provide facilities adequate to carry signals for PEG channels without material degradation, alteration, or removal of PEG channel content. Also, the bill imposes requirements on the channel numbers used for PEG channels and 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.

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

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

LRB-4426/P2dn

MDK:...

amr

- Date -

Sen. Vinehout:

This draft makes the changes you requested, except that, ~~upon further review,~~ *upon further review* I don't think any changes are necessary regarding item 4 in our email correspondence. For that item, you requested that I include a reference to s. 66.0420 (5) (d) 1. in the exceptions listed in s. 66.0420 (5) (c) 1. However, there is already an exception for all of s. 66.0420 (5) (d). See the reference to "par. (d)." Therefore, there is no need to add anything to s. 66.0420 (5) (c) 1.

INSECT A

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

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4426/P2ins2

MDK:...

Amn

D-note Insert

1

INSERT A:

2

Also, regarding item 5 in the email correspondence, note that s. 66.0420 (5) (c)

3

3. a. is grammatically correct without inserting a reference to “municipality” before

4

“submit.” Section 66.0420 (5) (c) ^{3.}(intro.) and 3. a. must be read together as one long

5

sentence. There is an intervening “if” clause at the beginning of s. 66.0420 (5) (c) 3.

6

a., but the subject that goes with the verb “submit” in s. 66.0420 (5) (c) 3. a. is the

7

municipality mentioned in the s. 66.0420 (5) (c) 3. (intro.), which must do the things

8

expressed in s. 66.0420 (5) (c) 3. a. and 3. b. If you want to allow, instead of require,

9

a municipality to do those things, let me know, and I will change the word “shall” in

10

s. 66.0420 ²⁵(3) (c) 3. (intro.) to “may.”



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4426/PT P2
MDK:amn

SA✓

O-NOTE

RM
not
clear
pmd

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Good if possible
Tuesday
2-2

gen cat

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

INSERT
2A

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; and 3) provide facilities adequate to carry signals for PEG channels without material degradation, alteration, or removal of PEG channel content. Also, the bill imposes requirements on the channel numbers used for PEG channels and 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.

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

INSERT
2-1

INSERT 2B

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

- 1 **SECTION 1.** 66.0420 (5) (a) 3. of the statutes is amended to read:
- 2 66.0420 (5) (a) 3. An interim cable operator or video service provider shall
- 3 provide any channel capacity for PEG channels required under this paragraph on
- 4 ~~any a~~ service tier that is viewed by ~~more than 50~~ 100 percent of the interim cable
- 5 operator's or video service provider's customers.
- 6 **SECTION 2.** 66.0420 (5) (b) 1. a. of the statutes is amended to read:
- 7 66.0420 (5) (b) 1. a. Notwithstanding par. (a), an interim cable operator or video
- 8 service provider may reprogram for any other purpose any channel capacity provided
- 9 for a PEG channel required by a municipality under par. (a) if the PEG channel is
- 10 not substantially utilized by the municipality. If the municipality certifies to the
- 11 interim cable operator or video service provider that reprogrammed channel capacity

1 for a PEG channel will be substantially utilized by the municipality, the interim cable
2 operator or video service provider shall, no later than 120 days after receipt of the
3 certification, restore the channel capacity for the PEG channel. Notwithstanding
4 par. (a) 3., an interim cable operator or video service provider may provide restored
5 channel capacity for a PEG channel on any service tier.

6 **SECTION 3.** 66.0420 (5) (c) 1. of the statutes is amended to read:

7 66.0420 (5) (c) 1. Except as otherwise required under pars. (a) and (d) and sub.
8 (7) (em) or allowed under sub. (7) (es), a municipality may not require an interim
9 cable operator or video service provider to provide any funds, services, programming,
10 facilities, or equipment related to public, educational, or governmental use of
11 channel capacity.

12 **SECTION 4.** 66.0420 (5) (c) 3. a. of the statutes is repealed and recreated to read:

13 66.0420 (5) (c) 3. a. If a municipality produces or maintains PEG channel
14 content or programming in a manner or form that is compatible with the interim
15 cable operator's or video service provider's video service network and that permits
16 the interim cable operator or video service provider to comply with the requirements
17 of par. (d) 3., submit the content or programming to the interim cable operator or
18 video service provider in that manner or form. If the municipality does not produce
19 or maintain PEG channel content or programming in such manner or form, the
20 interim cable operator or video service provider shall be responsible at its sole cost
21 for any changes in the manner or form of the transmission that are necessary to make
22 PEG channel content or programming compatible with the technology or protocol
23 used by the interim cable operator or video service provider to deliver services. If an

24 interim cable operator or video service provider is required to make such changes to
25 the manner or form of the transmission, the municipality shall provide reasonable

1 access to the interim cable operator or video service provider that allows the interim
2 cable operator or video service provider to transmit the PEG channel programming
3 in an economical manner subject to the requirements of par. (d) 3.

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

5 66.0420 (5) (d) 1. If a municipality requires an interim cable operator or video
6 service provider to provide capacity for PEG channels under par. (a), the interim
7 cable operator or video service provider shall be required to provide equipment and
8 transmission capacity sufficient to connect the interim cable operator's or video
9 service provider's headend or, video hub office, ^{equivalent} or transmission facilities to the
10 municipality's PEG access channel origination points existing as of January 9, 2008.
11 A municipality shall permit the interim cable operator or video service provider to
12 determine the most economically and technologically efficient means of providing
13 such equipment and transmission capacity. If a municipality requests that such a
14 PEG access channel origination point be relocated, the interim cable operator or
15 video service provider shall be required to provide only the first 200 feet of
16 transmission line beginning at the relocated origination point that is necessary to
17 connect the relocated origination point to the interim cable operator or video service
18 provider's headend or, video hub office ~~to such origination point, or~~ ^{equivalent} transmission
19 facilities. A municipality shall be liable for the costs of construction of such a
20 transmission line beyond the first 200 feet from the relocated origination point to the
21 headend, video hub office, or ^{equivalent} transmission facilities and for any construction costs
22 associated with additional origination points, but not for the costs associated with
23 the transmission of PEG programming over such line. The interim cable operator
24 or video service provider may recover its costs to provide equipment and

1 transmission capacity under this subdivision by identifying and collecting a “PEG
2 Transport Fee” as a separate line item on customer bills.

3 SECTION 6. 66.0420 (5) (d) 3. and 4. of the statutes are created to read:

4 66.0420 (5) (d) 3. If a municipality requires an interim cable operator or video
5 service provider to provide channel capacity for PEG channels under par. (a), the
6 interim cable operator or video service provider shall provide the channel capacity
7 with ^{the} accessibility, functionality, and audio and visual quality that is at least
8 equivalent to ^{the} accessibility, functionality, and audio and visual quality for channel
9 capacity that is used for one of the following:

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

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

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

19 a. ^{INSERT 5-19} The interim cable operator or video service provider shall provide the
20 channel capacity on channel numbers that are within 10 numerically of the channel
21 number of any local commercial television station or network-affiliated commercial
22 television station specified in subd. 3. a. or b.

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

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

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

6 66.0420 (7) (es) *Municipal ordinance.* A municipality may, by ordinance, for
7 the purpose of supporting PEG channels, require an interim cable operator or video
8 service provider to pay the municipality, beginning on January 1, 2017, a fee equal
9 to no more than 1 percent of the interim cable operator's or video service provider's
10 annual gross receipts. If an interim cable operator pays a franchise fee to a
11 municipality, the interim cable operator shall pay any fee required under this
12 paragraph at the time that the interim cable operator pays the franchise fee to the
13 municipality. A video service provider shall pay a fee required under this paragraph
14 at the time that the video service provider pays a video service provider fee to the
15 municipality.

16 **SECTION 8.** 66.0420 (7) (f) of the statutes is amended to read:

17 66.0420 (7) (f) *Itemization.* A video service provider may identify and collect
18 the amount related to a video service provider fee and any fee imposed for monetary
19 support for access facilities for PEG channels as described in under par. (em) or (es)
20 as a separate line item on customer bills.

21 **SECTION 9. Initial applicability.**

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

24 **SECTION 10. Effective dates.** This act takes effect on the day after publication,
25 except as follows:

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4426/P2ins

MDK...

am

SA ✓
xref ✓

1

INSERT 2A:

3) upon request, put the PEG channel schedule into the electronic program guide with the same functionality as commercial broadcast channels;

2

INSERT 2B:

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.

3

INSERT 2-1:

4

~~X~~ **SECTION 1.** 66.0420 (5) (a) 2. a. of the statutes is renumbered 66.0420 (5) (a) 2.

5

and amended to read:

6

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

10

11

12

13

14

History: 2007 a. 42 ss. 6, 8; 2009 a. 178, 180; 2013 a. 173 s. 33.

15

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

16

INSERT 5-19:

17

Upon request by the municipality, the video provider or interim cable operator shall itself or ~~through~~ ^{through a 3rd} a third party vendor, not later than 90 days after the date of the request, enable the municipality's PEG channel schedule to be present on an ongoing

18

19

- 1 basis on the provider's or operator's electronic program guide with the same
- 2 functionality as commercial broadcast channels.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4426/P2dn
MDK:amn

February 2, 2016

Sen. Vinehout:

This draft makes the changes you requested, except that I don't think any changes are necessary regarding item 4 in our email correspondence. For that item, you requested that I include a reference to s. 66.0420 (5) (d) 1. in the exceptions listed in s. 66.0420 (5) (c) 1. However, there is already an exception for all of s. 66.0420 (5) (d). See the reference to "par. (d)." Therefore, there is no need to add anything to s. 66.0420 (5) (c) 1.

Also, regarding item 5 in the email correspondence, note that s. 66.0420 (5) (c) 3. a. is grammatically correct without inserting a reference to "municipality" before "submit." Section 66.0420 (5) (c) 3. (intro.) and 3. a. must be read together as one long sentence. There is an intervening "if" clause at the beginning of s. 66.0420 (5) (c) 3. a., but the subject that goes with the verb "submit" in s. 66.0420 (5) (c) 3. a. is the municipality mentioned in the s. 66.0420 (5) (c) 3. (intro.), which must do the things expressed in s. 66.0420 (5) (c) 3. a. and 3. b. If you want to allow, instead of require, a municipality to do those things, let me know, and I will change the word "shall" in s. 66.0420 (5) (c) 3. (intro.) to "may."

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

Kunkel, Mark

From: Stafford, Beau
Sent: Thursday, February 04, 2016 3:44 PM
To: Kunkel, Mark
Subject: FW: Draft review: LRB -4426/P2
Attachments: 15-4426/P2.pdf; DraftersNote1.pdf

Mark –

We are good to go with the bill. Can we get an introducible version put together?

Thanks for all your help on this!

BEAU STAFFORD

Legislative Assistant
Office of Senator Kathleen Vinehout
beau.stafford@legis.wisconsin.gov
608-266-8546
Rm 108 South
Wisconsin State Capitol

From: LRB.Legal
Sent: Tuesday, February 02, 2016 11:10 AM
To: Sen.Vinehout <Sen.Vinehout@legis.wisconsin.gov>
Subject: Draft review: LRB -4426/P2

Following is the PDF version of draft LRB -4426/P2 and drafter's note.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4426/P2

MDK:amn

2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RM War
600
PUN

TODAY
- no changes

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

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

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,

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

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.

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

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)

Basford, Sarah

From: Stafford, Beau
Sent: Friday, February 05, 2016 11:50 AM
To: LRB.Legal
Subject: Draft Review: LRB -4426/1

Please Jacket LRB -4426/1 for the SENATE.