AN ACT to repeal 66.0420 (5) (a) 2. b. and 2. c.; to renumber and amend 66.0420

March 3, 2016 – Introduced by Senators VINEHOUT, BEWLEY, MILLER, C. LARSON, LASSA, WIRCH and RISSE, cosponsored by Representatives HEBL, KAHL, JORGENSEN, WACHS, DANOU, SHANKLAND, JOHNSON, GOYKE, SINICKI and BERCEAU. Referred to Committee on Elections and Local Government.

AN ACT to repeal 66.0420 (5) (a) 2. b. and 2. c.; to renumber and amend 66.0420

(5) (a) 2. a.; to amend 66.0420 (5) (a) 3., 66.0420 (5) (b) 1. a., 66.0420 (5) (c) 1.,

66.0420 (5) (d) 1. and 66.0420 (7) (f); to repeal and recreate 66.0420 (5) (c) 3.

a.; and to create 66.0420 (5) (d) 3. and 4. and 66.0420 (7) (es) of the statutes;

relating to: public, educational, and governmental access channel

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:

SECTION 1. 66.0420 (5) (a) 2. a. of the statutes is renumbered 66.0420 (5) (a) 2. and amended to read:

66.0420 (5) (a) 2. Except as provided in subd. 2. b. and c., 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.

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 b. and c. of the statutes are repealed.

SECTION 3. 66.0420 (5) (a) 3. of the statutes is amended to read:

66.0420 (5) (a) 3. An interim cable operator or video service provider shall
provide any channel capacity for PEG channels required under this paragraph on
any a service tier that is viewed by more than 50 100 percent of the interim cable
operator’s or video service provider’s customers.

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

66.0420 (5) (b) 1. a. Notwithstanding par. (a), an interim cable operator or video
service provider may reprogram for any other purpose any channel capacity provided
for a PEG channel required by a municipality under par. (a) if the PEG channel is
not substantially utilized by the municipality. If the municipality certifies to the
interim cable operator or video service provider that reprogrammed channel capacity
for a PEG channel will be substantially utilized by the municipality, the interim cable
operator or video service provider shall, no later than 120 days after receipt of the
certification, restore the channel capacity for the PEG channel. Notwithstanding
par. (a) 3., an interim cable operator or video service provider may provide restored
channel capacity for a PEG channel on any service tier.

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

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

**SECTION 6.** 66.0420 (5) (c) 3. a. of the statutes is repealed and recreated to read:

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

**SECTION 7.** 66.0420 (5) (d) 1. of the statutes is amended to read:

66.0420 (5) (d) 1. If a municipality requires an interim cable operator or video service provider to provide capacity for PEG channels under par. (a), the interim cable operator or video service provider shall be required to provide equipment and transmission capacity sufficient to connect the interim cable operator’s or video service provider’s headend or video hub office, or equivalent transmission facilities to the municipality’s PEG access channel origination points existing as of January 9, 2008. A municipality shall permit the interim cable operator or video service provider to determine the most economically and technologically efficient means of providing such equipment and transmission capacity. If a municipality requests that such a PEG access channel origination point be relocated, the interim cable operator
or video service provider shall be required to provide only the first 200 feet of transmission line beginning at the relocated origination point that is necessary to connect the relocated origination point to the interim cable operator or video service provider’s headend or video hub office to such origination point, or equivalent transmission facilities. A municipality shall be liable for the costs of construction of such a transmission line beyond the first 200 feet from the relocated origination point to the headend, video hub office, or equivalent transmission facilities and for any construction costs associated with additional origination points, but not for the costs associated with the transmission of PEG programming over such line. The interim cable operator or video service provider may recover its costs to provide equipment and transmission capacity under this subdivision by identifying and collecting a “PEG Transport Fee” as a separate line item on customer bills.

SECTION 8. 66.0420 (5) (d) 3. and 4. of the statutes are created to read:

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

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

b. The primary signal of the network-affiliated commercial television stations carried on the video service network of the interim cable operator or video service provider, if federal law does not require the interim cable operator or video service provider to carry local commercial television stations.
4. If a municipality requires an interim cable operator or video service provider to provide channel capacity for PEG channels under par. (a), all of the following apply:

   a. Upon request by the municipality, the video provider or interim cable operator shall itself or through a 3rd 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 basis on the provider’s or operator’s electronic program guide with the same functionality as commercial broadcast channels.

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

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

**SECTION 9.** 66.0420 (7) (es) of the statutes is created to read:

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

SECTION 10. 66.0420 (7) (f) of the statutes is amended to read:

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

SECTION 11. Initial applicability.

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

SECTION 12. Effective dates. This act takes effect on the day after publication,
except as follows:

(1) The treatment of section 66.0420 (5) (a) 3. and (b) 1. a. of the statutes takes
effect on the first day of the 4th month beginning after publication.

(END)