NC League of Municipalities: Legislative Bulletin

Video Franchising. A nationwide push by the telephone industry yielded legislation in a number of states and in Congress to do away with local government franchising of video programming. Telephone companies seek to expand their business by offering the video programming services traditionally provided by cable companies, and they view local franchise requirements as an impediment to their entry into the market.

Here in North Carolina, the initiative took the form of HB ***2047 - Video Service Competition Act (SL 2006-151).*** The act preempts city and county authority to grant or renew a cable franchise as of January 1, 2007 and replaces it with state franchising authority. Local governments will share portions of three state taxes to replace lost revenue from the local cable franchise fee. Shared revenues include percentages of the telecommunications sales tax; the cable/video services sales tax; and the satellite sales tax. Projections indicate that local governments will be kept whole and may show a net gain in revenue under this plan.

The act expressly states that there are no build-out requirements for providers with a state franchise. A cable provider can opt out of its existing local franchise agreement when a provider with a state-issued franchise makes service available to one household in the cable company's existing franchise area.

Cities retain their authority to regulate public rights of way under G.S. 160A. To the extent that municipalities are authorized to charge a fee for activities conducted in the right-of-way, the fee must apply uniformly and on a competitively neutral and nondiscriminatory basis to all comparable activities by similarly situated users of the right-of-way. Customer service complaints are to be directed to the Attorney General's office.

The act provides for public, educational and governmental (PEG) channels as follows: Cities with a population of at least 50,000 would have a minimum of three initial PEG channels (those under 50,000 a minimum of two initial PEG channels), plus channels in excess of the minimum that are activated as of July 1, 2006 under the terms of an existing franchise agreement. A city that does not have seven PEGs is eligible for an additional PEG if it meets specified programming requirements. Providers under the state franchise must provide free basic cable service upon request to a public building located within 125 feet of the cable system. Any city or county that used part of its franchise tax revenue in fiscal year 2005-06 for the operation and support of PEG channels or a publicly owned and operated television station must use the funds distributed to it under the act to continue that same level of support for PEGs and public TV.