

April 18, 2007

H 1587. THE LOCAL GOV'T FAIR COMPETITION ACT. Filed 4/18/07. *ESTABLISHING REQUIREMENTS FOR LOCAL GOVERNMENTS THAT PROVIDE COMMUNICATIONS SERVICES TO THE PUBLIC.*

Adds a new Part 1A to Article 16 of GS Chapter 160A (Local Government Owned or Operated Communications Services) to impose new requirements and limitations on a city that provides communications services over a communications network or is proposing to provide these services.

New GS 160A-329 defines communications service to include providing to the public (1) cable service, (2) telephone or telegraph communications, (3) electronic voice, data, audio, or video transmission, and (4) internet access service. New GS 160A-329.1 states that the new Part does not grant new authority to, or restrict the current authority of, a city to own, lease or operate a communications network or provide communications service over a communications network.

New GS 160A-329.2 requires a city that proposes to provide communications services to hold at least two public hearings, during which it considers certain specified factors. At the public hearings, the city also must submit a written business plan that contains certain specified information. After the public hearings and after making specific findings as to the specified factors, the city must call, by majority vote, for a special election under GS 163-287 as to whether the city should provide the proposed communications service to the public through a city owned communications service provider.

New GS 160A-329.3 authorizes a city to issue bonds as provided by general or local law to finance the capital costs for facilities necessary to provide the communications services. Any bond issued must be secured and paid for solely from the revenues generated by the communications services. It prohibits a city from paying the origination, financing, or other carrying costs associated with bonds issued from the local government's general fund or public enterprise funds.

New GS 160A-329.4 imposes several operating, regulatory, financing, accounting and other limitations on a city owned communications service provider.

New GS 160A-329.5 requires a city owned communications service provider to pay a liability insurance rate that is equal to or greater than the state average market rate for private liability insurance for communications providers. If the city pays less than the average market rate for liability insurance, it must remit the difference to the general fund of the city that owns the communications provider.

New GS 160A-329.6 provides that laws granting immunity to a political subdivision of NC for a violation of NC antitrust laws do not apply to any action of a city as it relates to the provision of communications services, except as required by federal law.

Makes conforming changes to GS 62-3(23).

Intro. by Saunders, Holliman, Brubaker, Howard. GS 62, 160A

June 7, 2007

H 1587. THE LOCAL GOV'T FAIR COMPETITION ACT. Filed 4/18/07. House committee substitute makes the following changes to 1st edition. Modifies proposed new GS 160A-329.2 as follows: (1) changes the catch line, (2) modifies the cost requirements that must be considered by a local government when holding a public hearing on communications service and changes how expenses are to be allocated, (3) requires the business plan that is made available at the public hearing to include a plan to ensure that revenues exceed operating expenses within a specified period of time that is consistent with practices for similar projects (was, to ensure that the payment of principal and interest on debt occurs within four years) after the communications service is first provided, and (4) deletes the requirement that the local government call for a special election on whether the local government must provide the communications service to the public through a local government-owned service provider when specific findings are made as to the factors that are addressed at the public hearing. Provides that the public hearing requirements do not apply to communications services authorized by local government action by May 1, 2007, and offered to the public by November 1, 2007. Modifies proposed new GS

160A-329.3 to provide that a bond issued must be secured and paid for from assets that are used to provide the communications service in addition to the revenues generated by the local government owner service provider. Also prohibits a local government from securing the payment of any obligation incurred in providing communications services with assets that are not used only in providing communications service. The bond restrictions do not apply to any bond intended to finance capital costs for facilities necessary to provide communications services if the bond has been issued and is outstanding or is under a binding written commitment to be issued as of the act's effective date. Deletes the previous language in proposed new GS 160A-329.6 (antitrust immunity) and replaces it with a provision allowing an aggrieved party to bring an action for injunctive relief in the superior court in the county where the local government communications provider is located. Provides that a municipality designated as a public utility is not subject to the provisions of the act related to its operations, if the municipality is designated as a public utility as of the date the act becomes effective.

July 24, 2007

H 1587. THE LOCAL GOV'T FAIR COMPETITION ACT. Filed 4/18/07. House committee substitute deletes all provisions of the 2nd edition and replaces it with *AN ACT AUTHORIZING THE JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE TO STUDY LOCAL GOVERNMENT OWNED AND OPERATED COMMUNICATIONS SERVICES*. As title indicates. The committee may make an interim report to the 2008 legislative session and must make a final report to the 2009 session. The committee's expenses are to be paid from funds appropriated to the General Assembly.