

By: Dunnam

H.B. No. 3970

A BILL TO BE ENTITLED

AN ACT

relating to the authority to seek and the provision of service under a state-issued cable or video franchise.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 66.004, Utilities Code, is amended by amending Subsections (a) and (c) to read as follows:

(a) Beginning September 1, 2009, a [A] cable service provider or a video service provider that currently has or had previously received a franchise to provide cable service or video service with respect to such municipalities may elect to terminate that municipal franchise and seek a state-issued certificate of franchise authority by providing written notice to the commission and the affected municipality before January 1, 2010. The municipal franchise is terminated on the date the commission issues the state-issued certificate of franchise authority ~~[is not eligible to seek a state-issued certificate of franchise authority under this chapter as to those municipalities until the expiration date of the existing franchise agreement, except as provided by Subsections (b) and (c)].~~

(c) A cable service provider that ~~[serves fewer than 40 percent of the total cable customers in a municipal franchise area and that]~~ elects under Subsection (a) or (b) to terminate an existing municipal franchise is responsible for remitting to the affected municipality before the 91st day after the date the

1 municipal franchise is terminated any accrued but unpaid franchise
2 fees due under the terminated franchise. If the cable service
3 provider has credit remaining from prepaid franchise fees, the
4 provider may deduct the amount of the remaining credit from any
5 future fees or taxes it must pay to the municipality, either
6 directly or through the comptroller.

7 SECTION 2. Section 66.014, Utilities Code, is amended to
8 read as follows:

9 Sec. 66.014. DISCRIMINATION PROHIBITED. (a) The purpose
10 of this section is to prevent discrimination among potential
11 residential subscribers.

12 (b) A cable service provider or video service provider that
13 has been granted a state-issued certificate of franchise authority
14 may not deny access to service to any group of potential residential
15 subscribers in its video service area because of the race or income
16 of the residents in the local area in which such group resides.

17 (c) An affected person may seek enforcement of the
18 requirements described by Subsection (b) by initiating a proceeding
19 with the commission. A municipality within which the potential
20 residential cable service or video service subscribers referenced
21 in Subsection (b) may be considered an affected person for purposes
22 of this section.

23 (d) In a proceeding described by Subsection (c), the
24 commission may not order enforcement of the requirements described
25 by Subsection (b) if the cable service provider or video service
26 provider demonstrates that:

27 (1) three years after the date the cable service

1 provider or video service provider began providing cable service or
2 video service in its video service area, at least 40 percent of the
3 households with access to the cable service provider's or video
4 service provider's service are low-income households; or

5 (2) five years after the date the cable service
6 provider or video service provider began providing cable service or
7 video service in its video service area and each year thereafter, at
8 least 50 percent of the households with access to the cable service
9 provider's or video service provider's service are low-income
10 households [~~The holder of a state-issued certificate of franchise~~
11 ~~authority shall have a reasonable period of time to become capable~~
12 ~~of providing cable service or video service to all households~~
13 ~~within the designated franchise area as defined in Section~~
14 ~~66.003(b)(4) and may satisfy the requirements of this section~~
15 ~~through the use of an alternative technology that provides~~
16 ~~comparable content, service, and functionality].~~

17 (e) At the end of the first, third, fifth, and tenth years
18 after the issuance of a state-issued certificate of franchise
19 authority, the holder of a state-issued certificate of franchise
20 authority shall provide the commission with evidence certifying
21 compliance with Subsection (b) [~~Notwithstanding any provision of~~
22 ~~this chapter, the commission has the authority to make the~~
23 ~~determination regarding the comparability of the technology and the~~
24 ~~service provided]. Notwithstanding any provision of this chapter,~~
25 the commission has the authority to monitor the deployment of cable
26 services, video services, or alternate technology.

27 SECTION 3. Section 66.007, Utilities Code, is repealed.

1 SECTION 4. This Act takes effect September 1, 2009.