

1-1 By: Carona S.B. No. 327  
 1-2 (In the Senate - Filed January 31, 2013; February 5, 2013,  
 1-3 read first time and referred to Committee on Business and Commerce;  
 1-4 February 27, 2013, reported favorably by the following vote:  
 1-5 Yeas 8, Nays 0; February 27, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to termination of franchises to provide cable or video  
 1-20 service in municipalities.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subsections (b), (c), and (f), Section 66.004,  
 1-23 Utilities Code, are amended to read as follows:

1-24 (b) Beginning September 1, 2005, a cable service provider or  
 1-25 video service provider [~~that is not the incumbent cable service~~  
 1-26 ~~provider and serves fewer than 40 percent of the total cable~~  
 1-27 ~~customers in a particular municipal franchise area]~~ may elect to  
 1-28 terminate a [~~that~~] municipal franchise and seek a state-issued  
 1-29 certificate of franchise authority by providing written notice to  
 1-30 the commission and the affected municipality [~~before January 1,~~  
 1-31 ~~2006~~]. The municipal franchise is terminated on the date the  
 1-32 commission issues the state-issued certificate of franchise  
 1-33 authority.

1-34 (c) A cable service provider that elects under this section  
 1-35 [~~Subsection (b), (b-1), or (b-2)]~~ to terminate an existing  
 1-36 municipal franchise is responsible for remitting to the affected  
 1-37 municipality before the 91st day after the date the municipal  
 1-38 franchise is terminated any accrued but unpaid franchise fees due  
 1-39 under the terminated franchise. If the cable service provider has  
 1-40 credit remaining from prepaid franchise fees, the provider may  
 1-41 deduct the amount of the remaining credit from any future fees or  
 1-42 taxes it must pay to the municipality, either directly or through  
 1-43 the comptroller.

1-44 (f) Except as provided in this chapter, nothing in this  
 1-45 chapter is intended to abrogate, nullify, or adversely affect in  
 1-46 any way the contractual rights, duties, and obligations existing  
 1-47 and incurred by a cable service provider or a video service provider  
 1-48 before the date a franchise expires or the date a provider  
 1-49 terminates a franchise under this section [~~Subsection (b-1) or~~  
 1-50 ~~(b-2), as applicable,~~] and owed or owing to any private person,  
 1-51 firm, partnership, corporation, or other entity including without  
 1-52 limitation those obligations measured by and related to the gross  
 1-53 revenue hereafter received by the holder of a state-issued  
 1-54 certificate of franchise authority for services provided in the  
 1-55 geographic area to which such prior franchise or permit  
 1-56 applies. All liens, security interests, royalties, and other  
 1-57 contracts, rights, and interests in effect on September 1, 2005, or  
 1-58 the date a franchise is terminated under this section [~~Subsection~~  
 1-59 ~~(b-1) or (b-2)]~~ shall continue in full force and effect, without the  
 1-60 necessity for renewal, extension, or continuance, and shall be paid  
 1-61 and performed by the holder of a state-issued certificate of

2-1 franchise authority, and shall apply as though the revenue  
2-2 generated by the holder of a state-issued certificate of franchise  
2-3 authority continued to be generated pursuant to the permit or  
2-4 franchise issued by the prior local franchising authority or  
2-5 municipality within the geographic area to which the prior permit  
2-6 or franchise applies. It shall be a condition to the issuance and  
2-7 continuance of a state-issued certificate of franchise authority  
2-8 that the private contractual rights and obligations herein  
2-9 described continue to be honored, paid, or performed to the same  
2-10 extent as though the cable service provider continued to operate  
2-11 under its prior franchise or permit, for the duration of such  
2-12 state-issued certificate of franchise authority and any renewals or  
2-13 extensions thereof, and that the applicant so agrees. Any person,  
2-14 firm, partnership, corporation, or other entity holding or claiming  
2-15 rights herein reserved may enforce same by an action brought in a  
2-16 court of competent jurisdiction.

2-17 SECTION 2. Subsection (h), Section 66.009, Utilities Code,  
2-18 is amended to read as follows:

2-19 (h) Where technically feasible, the holder of a  
2-20 state-issued certificate of franchise authority that is not an  
2-21 incumbent cable service provider and an incumbent cable service  
2-22 provider, including an incumbent cable service provider that holds  
2-23 a state-issued certificate of franchise authority [~~issued under~~  
2-24 ~~Section 66.004(b-1)~~], shall use reasonable efforts to interconnect  
2-25 their cable or video systems for the purpose of providing PEG  
2-26 programming. Interconnection may be accomplished by direct cable,  
2-27 microwave link, satellite, or other reasonable method of  
2-28 connection. The holder of a state-issued certificate of franchise  
2-29 authority and the incumbent cable service provider shall negotiate  
2-30 in good faith, and the incumbent cable service provider may not  
2-31 withhold interconnection of PEG channels.

2-32 SECTION 3. Subsections (a), (b-1), (b-2), and (b-3),  
2-33 Section 66.004, Utilities Code, are repealed.

2-34 SECTION 4. This Act takes effect immediately if it receives  
2-35 a vote of two-thirds of all the members elected to each house, as  
2-36 provided by Section 39, Article III, Texas Constitution. If this  
2-37 Act does not receive the vote necessary for immediate effect, this  
2-38 Act takes effect September 1, 2013.

2-39

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