



Meeting Date 6/13/2006

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s) _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s) _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Study Session

Prepared By: Dennis L. Scala, City Manager's Office Agenda Item No. I-2

Reviewed By: City Manager [Signature] City Attorney [Signature] Finance [Signature] Other (Specify) \_\_\_\_\_

DATE: May 24, 2006

TO: City Council

FROM: Dennis L. Scala, Management Analyst  
City Manager's Office

SUBJECT: Letters in Opposition to proposed legislation AB 2987 the "Digital Infrastructure and Video Competition Act of 2006.

**RECOMMENDATION**

That the Mayor and City Council execute a letter to our State Legislators in opposition to AB 2987 the "Digital Infrastructure and Video Competition Act of 2006." limiting the rights of local governments in franchising cable television providers.

**DISCUSSION**

AB 2987 the "Digital Infrastructure and Video Competition Act of 2006." will have a profound impact on communities across California and will set the regulatory template for telecommunications services in this state for many years to come. The concern that staff has with AB 2987 is the conditions under which telecommunications services will be deployed in our communities.

The bill preempts local franchising authority and establishes a new state bureaucracy with the power to oversee telecommunications franchising in California. The state has never had any authority over local franchising and has no experience in addressing what are essentially local issues that arise in any franchising agreement. Provisions should be placed in any state franchising law that permit local governments and telecommunications providers, incumbent and new entrants, to negotiate a franchise by mutual agreement. This provides flexibility for local problem solving that is much more creative and adaptable to local communities than a state administered, top-down approach. Further, local franchise law typically includes provisions to deal with problems of late payments by a provider, including interest and late payment charges. Provisions should be included in AB 2987 to cover these operational issues.

The bill should be amended to make it clear that local government franchise fee revenue needs to be maintained at least at its current level. In the bill, the definition of "gross revenues," on which franchise

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fees are calculated, will likely result in some communities experiencing a loss of revenue. The bill should be amended to meet this objection. AB 2987 preempts local tax and fee authority and places in jeopardy collections of business license fees and encroachment permit fees as well as other local taxes and fees.

Many communities have established public, education and governmental (PEG) channels in local franchise agreements. These channels are critical for local communities and provide excellent educational opportunities for local citizens. Current PEG channels must be maintained and an opportunity created in the legislation for communities to establish and increase the number of PEG channels to serve the community.

Also, many communities have established institutional networks (INETS) in local franchise agreements. An INET is a network of telecommunications lines connecting schools, libraries, nonprofit organizations and/or government facilities. AB 2987 appears to permit these services to expire after a certain date. Any new regulatory scheme should require the maintenance of the current INET services and permit local communities in the future to adopt INETs.

The provisions of the bill would result in the elimination of current local franchise agreements that call for the support for PEG channels and limit the amount of support for PRG channels to 1% of gross revenues. Provisions should be amended into the bill to ensure that the current local fee structure could be maintained if the local community would face a revenue loss under the new gross revenues calculation.

AB 2987 fails to clearly spell out the authority of local government to manage the public's right-of-way. The bill needs to be amended to ensure that local authority is maintained to address the inevitable problems when deploying new telecommunications infrastructure. Also, the bill needs to be amended to ensure that local governments have control over aesthetic issues when it comes to the deployment of telecommunications infrastructure. One new entrant plans to place large boxes, said to have a 3' to 4' base and to be as tall as 5' to 6', in the public right-of-way. Local citizens will want to give their input on the placement of these devices.

Local governments in California have been successful in ensuring that cable video services are deployed equitably in local communities. AB 2987 should be amended to ensure that new entrants are subject to build out standards that set a reasonable time frame for the deployment of its telecommunications infrastructure in local communities. This will ensure access to these services by all areas of a community, not just the most economically attractive areas of a community.

The City receives approximately \$800,000 annually in franchise fees from the cable television provider. If AB 2987 passes without provisions enabling franchise authorities to retain franchise fees, the City could lose approximately \$800,000 in general fund revenue annually.

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It is for the above reasons that staff is recommending that the Mayor and City Council execute a letter to our State Legislators in opposition to AB 2987 the "Digital Infrastructure and Video Competition Act of 2006" limiting the rights of local governments in franchising cable television providers.

## **FINANCIAL IMPACT**

None.

Attachment #1 - Draft Letter in Opposition to AB 2987.

Note: The letters in opposition to AB 2987 have been provided to the City Council. Copies are available for review at the Circulation Desk in the Library after 6:00 p.m. on the Friday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on Friday.

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