



Item #30

**Telecommunications & Regulatory Affairs
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA DATE: 4/6/2006
ITEM NO:**

Subject: Approve a resolution urging the United States Congress to consider several principles in reforming Federal telecommunications legislation to preserve and protect local government authority and interests, maximize meaningful competition, preserve public, educational, and governmental programming, and enhance public safety.

Amount and Source of Funding:

Fiscal Note:

Requesting Department: TARA

For More Information: Rondella Hawkins; Manager, 974-2422

Prior Council Action:

Boards and Commission Action: Approved by the Council Committee for Emerging Technologies and Telecommunications.

Purchasing Language:

MBE/WBE:

The United States Congress has begun the process of considering comprehensive changes to telecommunications law. The changes are likely to have a profound impact on the manner in which local or state governments regulate the industry in their communities and on the management authority and compensation for the public rights-of-way.

As in Texas, the regional bell operating companies, including AT&T (formerly SBC Communications) and Verizon, intend to offer video services and are seeking federal legislation that would restructure the local government or state franchising process and create a national video franchise.

Current federal law requires cable television operators to obtain a local franchise agreement from a city before a cable television operator offers video services to its residents. This obligation to obtain a local franchise stems both from inherent local government authority over the use of public rights-of-way and from the federal Cable Communications Policy Act of 1984 and the 1992 Cable Act, Title VI.

Local governments, through the franchising process, can obtain significant benefits that satisfy the cable related needs of the community, including: public, educational and government access channels, financial support for programming on the access channels, free services to city and public school facilities, the ability to inform residents of emergencies and disasters, and other services and social obligations that support important educational and public interests.

Local government authority may be preempted by state law as demonstrated by the 79th Texas Legislature, which passed SB5 during a second called session. SB5 brought state-issued cable and video franchising to the state.

There are things about SB5 that are undesirable, such as: no build out requirements, no

meaningful customer service standards and no local franchising once existing franchises expire. However, cities were able to get key provisions included in the bill that protected police powers and cable-related revenues such as franchise fees and funding for in-kind services including support funds for public, educational and government access channels.

The staff recommends that City Council approve a resolution urging the U.S. Congress to consider certain principles, as indicated on the draft resolution, as they consider changes to the 1996 Telecommunications Act and to preserve key provisions that were granted to Texas cities under SB5.

RESOLUTION NO. _____

WHEREAS, the Congress of the United States is considering new or amended Federal legislation regulating the telecommunications industry, including the Telecommunications Act of 1996; and

WHEREAS, since the passage of the 1996 federal Telecommunications Act, there have been significant changes and advances in communications technology and the marketplace; and

WHEREAS, reform to federal telecommunications law is likely to have a profound impact on the manner in which local governments regulate the industry in their communities;

WHEREAS, the City of Austin is committed to promoting a competitive and technologically advanced telecommunications environment for its residents, businesses, and visitors; and

WHEREAS, it is the goal of the City of Austin to encourage cable and broadband service providers to offer universal service so that all its residents can benefit from competition and available technologies. **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

1. The City of Austin urges the United States Congress to consider the following principles as vital to the successful reform of Federal Telecommunications legislation, including the 1996 Telecommunications Act:
 - a. Maintain Local Authority: Local governments know best how to protect their citizens with regard to infrastructure, competition, universal service, and management of public rights-of-way.
 - b. Preserve Control over Public Rights of Way and Zoning: Maintaining local authority over rights-of-way and zoning is essential for local governments, which protect taxpayer investment in the community's valuable infrastructure.
 - c. Encourage True Competition and Competitive Neutrality: Local governments must encourage competition and investment from the industry in order to be more attractive to new businesses and residents. Robust competition improves choice, pricing, and access to new technologies. Regulation should be the same for all video providers, regardless of the technology employed.
 - d. Continue Local Franchising: Local franchise agreements are essential to (i) ensuring universal service, (ii) meeting public, educational, and community needs, and (iii) managing local rights-of-way properly.
 - e. Authorize Municipal Provision of Broadband Services: Local governments should be able to provide broadband for the purpose of economic development, and to give all citizens access. In many cases, municipalities would be the only provider available,

or the only source of competition. Open access is essential; communication providers should not discriminate between content providers or applications.

- f. Enhance Public Safety: New voice technologies such as Voice over Internet Protocol (VoIP) should not be exempt from paying for E-911 services. Local governments should maintain authority to require and initiate an alert using an all-channel override in cases of local emergencies.
 - g. Support Reasonable Municipal Fees and Revenues: Local governments should be fairly compensated for use of public rights-of-way. They rely on revenue from businesses in order to provide services to those businesses and to residents. Telecommunications businesses should not be exempt from local taxation; this would simply shift the revenue burden to others.
 - h. Recognize State Reforms: In 2005, the State of Texas reformed its telecommunications laws. New provisions include a state-wide franchise for cable operators, while preserving many essential elements of local authority. Congress should allow the states their own regulatory framework, tailored to their own citizens, and not preempt state regulation.
2. The Mayor and City Manager are authorized to present this Resolution to the appropriate members of the United States Congress and other responsible officials of the United States Government, and to take such other action as is reasonable, necessary and proper to communicate the interests and concerns of the City in this matter.

ADOPTED: _____, 2006

ATTEST: _____

Shirley A. Gentry
City Clerk