

May 17, 2006

S 1559. VIDEO SERVICE COMPETITION ACT (=H 2047). Filed 5/17/06. *TO PROMOTE CONSUMER CHOICE IN VIDEO PROGRAMMING SERVICES.* Identical to H 2047, introduced 5/17/06.

Intro. by Clodfelter.

GS 66, 105, 153A, 160A

June 13, 2006

S 1559. VIDEO SERVICE COMPETITION ACT. Filed 5/17/06. Senate committee substitute makes the following changes to 1st edition. (1) Modifies definitions section to expand definition of "existing agreement" and to make conforming changes to reflect the transfer of franchising authority from the NC Utilities Commission to the Secretary of State in GS 66-351. (2) Revises GS 66-352(a) to replace reference to "notice of service" with "notice of franchise" and to require that a person who files a notice of franchise pay a fee for filing articles of organization. Also requires that the notice of franchise include the applicant's mailing, physical, and e-mail address and telephone number. (3) Requires that a holder of a State-issued franchise file an annual service report by July 31 of each year (was, July 15). Further revises GS 66-353 to require that service report state the extent to which the holder has met the customer service requirements imposed by GS 66-356(b). (4) Modifies GS 66-354 to require that any document filed with the Secretary under Article must also be sent to the registered agent of any cable service provider currently providing cable service in the service area described in the document. Also provides that Article 2 of GS Chapter 55D (outlining requirement for filing documents with the Secretary of State) applies to the filing of documents under new Article 42. Requires that the Secretary either post documents filed under Article on the Department's Internet website or otherwise indicate on that site that the document has been filed.

(5) Adds new GS 66-354(b) to provide that a person who offers cable service over a cable system without filing a notice of franchise or notice of service is subject to forfeiture of all revenue received during the period of noncompliance and to authorize a cable service provider that provides service in the same area to bring a civil action for forfeiture. Provides that any amounts forfeited will be remitted to the Civil Penalty and Forfeiture Fund. (6) Reorganizes GS 66-355(a) and adds the following two additional grounds for termination of any existing local franchise agreement: (a) if, as of January 1, 2007, a county or city has an agreement with more than one cable provider and at least 25% of the households in the franchise areas covered by that agreement are passed by more than one cable service provider, or (b) the provider seeking termination provides wireline competition in the franchise area of the existing agreement by offering video programming over wireline facilities. Revises GS 66-235(b) to make the termination of an existing agreement effective at the end of the month in which the notice of termination is filed (was, at the end of a calendar quarter that is at least 30 days after the notice of termination is filed). (7) Modifies GS 66-356(a) to require that competitive pressure be considered in determining whether a provider discriminated on the grounds of a resident's race or income. Provides that persistent violations of federal customer service requirements or the provider's agreement with its customers will constitute unfair or deceptive acts under GS 75-1.1. Also requires that a provider enclose in customer's bills specified contact information for customer service and the Consumer Protection Division of the NC Attorney General's Office.

(8) Revises GS 66-357(c) to provide that a county is allowed a minimum of two initial public, educational or governmental access (PEG) channels plus any channels in excess of this minimum that are activated, as of July 1, 2006, under the terms of an existing franchise agreement that includes the county. Provides that for a county that is not included in the franchise area of an existing agreement, the initial PEG channels must be on a basic service tier and the transmission quality of the channels must be equivalent to those of any city with PEG channels in the county. (9) Revises GS 66-357(d) to require that programming requirements be met for at least 120 continuous days and that the PEG channels must have scheduled programming for at least eight hours a day. (10) GS 66-357(f) is modified to prohibit in a cable service provider from branding content on a PEG channel with its logo, name, or other identifying marks. (11) Modifies GS 66-258(a) to require that a cable service provider that receives a written request for interconnection from a provider operating under a State-issued franchise interconnect its cable

system on reasonable and competitively neutral terms. Specifies reasonable terms. Also requires in GS 66-258(b) that PEG channel programming provided to a cable service provider for transmission meet the federal National Television System Committee Standards or the Advanced Television Systems Committee Standards.

(12) Enacts new GS 66-359 to create the PEG Channel Fund administered by the e-NC Authority and to authorize the award to cities and counties of grants of up to \$25,000 from the Fund on a dollar-for-dollar matching basis. (13) Revises GS 66-360 to provide that in providing free cable service to a public building, the provider is not required to provide inside wiring (was, concealed inside wiring) or to provide service that conflicts with restrictions that apply in a program licensing agreement or another contract. (14) Modifies GS 105-164.44I(a) to require that the Secretary of Revenue distribute \$2 million of the sales taxes imposed on telecommunications and video programming services for supplemental PEG support to counties and cities. Requires that the county or city certify the number of qualifying PEG channels it operates by July 15 (was, January 15) of each year. Revises provision directing the amount of tax revenues to be distributed to counties and cities. Adds provision directing the use of tax proceeds by cities and counties in 2006-07. Also describes how the submission of late information will impact the distribution of tax revenues. Modifies provision outlining circumstances that will change the proportion of tax revenues for which a city qualifies. (15) Amends GS 160A-296 to make stylistic changes and to prohibit a city from imposing a fee or charge for use of the public right-of-way unless the fee or charge applies uniformly to all nonmunicipal users of the public right-of-way. (16) Requires that a county or city certify to the Secretary of Revenue by January 15, 2007, the number of qualifying PEG channels it operates in order for the Secretary to make the distribution under GS 105-164.44I(c). (17) Requests that the Office of the Attorney General monitor cable service complaints received from customers served under a local franchise agreement or a State-issued franchise and report to the Fiscal Research Division on whether additional staff is required to handle those complaints by April 1, 2007. (18) Provides that the Secretary of State has no authority to determine whether a person providing video programming is providing cable service over a cable system. Further states that a person providing video programming may obtain a State-issued franchise under new Article 42 of GS Chapter 66 regardless of whether the video programming the person provides is considered cable service under that Article or under federal law.