

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1840  
PROPOSED SENATE COMMITTEE SUBSTITUTE H1840-PCS50947-TD-101

Short Title: Remove e-NC Sunset/Study Competing Systems.

(Public)

Sponsors:

Referred to:

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE SUNSET PROVISION PERTAINING TO THE E-NC AUTHORITY, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON HIGH-SPEED INTERNET ACCESS IN RURAL AND URBAN AREAS AND TO DIRECT THE REVENUE LAWS STUDY COMMITTEE TO CONTINUE ITS REVIEW OF LOCAL GOVERNMENT OWNED AND OPERATED COMMUNICATION SYSTEMS AND TO TEMPORARILY LIMIT THE FINANCING OPTIONS FOR THESE SYSTEMS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 4 of S.L. 2003-425, as amended by Section 12.3(a) of S.L. 2006-66, reads as rewritten:

**"SECTION 4.** Sections 1 and 2 of this act become effective December 31, 2003, with the e-NC Authority hereby designated as the successor entity of the Rural Internet Access Authority that will dissolve on that date, as provided by Section 5 of S.L. 2000-149. The remainder of this act is effective when it becomes law. ~~The e-NC Authority created in this act is dissolved effective December 31, 2011. This act is repealed effective December 31, 2011. Part 2F of Article 10 of Chapter 143B of the General Statutes and G.S. 120-123(77), as enacted by this act, are repealed effective December 31, 2011.~~"

**SECTION 2. Communication System.** – As used in this act, the term "communication system" means a system that provides high-speed broadband Internet access service or other Internet access service, cable service, telecommunications service, video programming service, or a combination of these services at retail. The terms "cable service," "telecommunications service," and "video programming service" have the same meanings as in G.S. 105-164.3.

**SECTION 3.(a) Study.** – The Revenue Laws Study Committee is directed to continue its study begun in 2009 of local government owned and operated communication systems and to report its findings and any recommended legislation on this subject to the 2011 General Assembly by March 1, 2011. As part of its study, the Committee shall determine the following:

- (1) The extent to which current law authorizes units of local government to offer communication services not traditionally thought of as cable television services.



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- 1 (2) The requirements and standards that should apply to a unit of local  
2 government and to a private provider when the local unit offers a  
3 communication service that is offered by a private provider.
- 4 (3) Whether varying or different provisions are needed to accommodate  
5 communication systems placed in service or financed under G.S. 160A-20  
6 by cities before the effective date of this act.
- 7 (4) Policies and incentives that can be established to facilitate the offering and  
8 expansion of communication service by both public and private service  
9 providers, including public-private ventures and other opportunities.

10 **SECTION 3.(b) Membership.** – In conducting the study described in subsection  
11 (a) of this section, the Revenue Laws Study Committee cochairs are authorized to appoint an  
12 advisory subcommittee and to ask the Local Government Commission to designate an  
13 individual to participate in the subcommittee's deliberations in an ex officio, nonvoting  
14 capacity. The subcommittee may consist of no more than 12 members and may include  
15 individuals who are not members of the Committee or of the General Assembly, eight of whom  
16 represent the following interests:

- 17 (1) A cable service provider.
- 18 (2) A wireless telecommunications service provider.
- 19 (3) A local exchange provider that is not a wireless telecommunications service  
20 provider.
- 21 (4) A local exchange provider that is a wireless telecommunications service  
22 provider.
- 23 (5) A city that operates a cable system and an electric power system as a public  
24 enterprise.
- 25 (6) A city that operates a cable system as a public enterprise and does not  
26 operate an electric power system as a public enterprise.
- 27 (7) A city that is a member of a joint agency established under G.S. 160A-462  
28 for the operation of a cable system as a public enterprise.
- 29 (8) The North Carolina League of Municipalities.

30 **SECTION 4.(a) Interim Financing Provisions.** – The Local Government  
31 Commission may not approve an application for financing under G.S. 160A-19, 160A-20, or  
32 160A-466 by a unit of local government or a joint agency for a communication system until the  
33 date a bill recommended to the 2011 Regular Session of the 2011 General Assembly by the  
34 Revenue Laws Study Committee as a result of the study directed by Section 3 of this act  
35 becomes law or, if a bill is not recommended by that Committee or is not enacted, until the  
36 2011 Regular Session of the General Assembly adjourns by joint resolution for more than 10  
37 days. A communication system does not include systems and services provided by a unit of  
38 local government only for its own use or, pursuant to an interlocal or service agreement, for use  
39 by other units or agencies of government.

40 The prohibition in this section does not apply to an application submitted by any of  
41 the following:

- 42 (1) A unit of local government or a joint agency that, as of June 1, 2010, had  
43 previously entered into a contract under G.S. 160A-20 or G.S. 160A-466 to  
44 finance a communication system.
- 45 (2) A unit of local government that meets all of the following requirements:
  - 46 a. As of June 1, 2010, has contracted with an outside party for a  
47 high-speed broadband Internet feasibility study. A high-speed  
48 broadband Internet feasibility study is a study that addresses the  
49 potential market for a publicly owned communication system,  
50 explores a system design and deployment strategy for various models  
51 and levels of service, or identifies the investments in property and

1 equipment necessary to develop a system under various models and  
2 levels of service.

3 b. On or before December 1, 2010, has taken formal action, as reflected  
4 in the minutes of the city council's meetings, to instruct city staff to  
5 file an application with the Local Government Commission to  
6 approve a contract by the city to finance a communication system.

7 (3) The recipient of a federal broadband stimulus grant, if the financing is  
8 needed to provide any matching funds required as a condition of receiving  
9 the grant.

10 (4) A unit of local government chosen by Google for its Fiber Project, if the  
11 financing is needed to qualify as the Fiber Project.

12 **SECTION 4.(b) Interim Notice Requirements.** – A unit of local government that  
13 plans to submit an application to the Local Government Commission during the period the  
14 prohibition in subsection (a) of this section is in effect and whose application is eligible for  
15 approval during this period because of the exclusion in subdivision (2) of that subsection must  
16 hold a public hearing on the proposed application and must send written notice to each person  
17 that provides communication service within the unit of its intent to submit an application. The  
18 notice must be sent at least 15 days before the date of a public hearing held on the proposal. If  
19 the unit submits an application to the Local Government Commission after the public hearing,  
20 the Local Government Commission must accept written and oral comments from the providers  
21 the unit is required to notify under this subsection.

22 **SECTION 4.(c) New Requirements Apply.** – A unit of local government whose  
23 application to the Local Government Commission is approved under subdivision (a)(2) of this  
24 section will be fully subject to the requirements of any bill enacted by the 2011 Regular Session  
25 of the 2011 General Assembly upon the recommendation of the Revenue Laws Study  
26 Committee as a result of the study directed by Section 3 of this act.

27 **SECTION 5.** This act is effective when it becomes law.