

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1209
PROPOSED COMMITTEE SUBSTITUTE S1209-PCS55616-TD-83

Short Title: Study Competing Systems/Interim Debt.

(Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT 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. 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. The terms "cable service," "telecommunications service," and "video programming service" have the same meanings as in G.S. 105-164.3.

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

SECTION 2.(b) Membership. – In conducting the study described in subsection (a) of this section, the Revenue Laws Study Committee cochairs are authorized to appoint an advisory subcommittee and to ask the Local Government Commission to designate an individual to participate in the subcommittee's deliberations in an exofficio, nonvoting capacity. The subcommittee may consist of no more than 12 members and may include individuals who



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1 are not members of the Committee or of the General Assembly, eight of whom represent the
2 following interests:

- 3 (1) A cable service provider.
- 4 (2) A wireless telecommunications service provider.
- 5 (3) A local exchange provider that is not a wireless telecommunications service
6 provider.
- 7 (4) A local exchange provider that is a wireless telecommunications service
8 provider.
- 9 (5) A city that operates a cable system and an electric power system as a public
10 enterprise.
- 11 (6) A city that operates a cable system as a public enterprise and does not
12 operate an electric power system as a public enterprise.
- 13 (7) A city that is a member of a joint agency established under G.S. 160A-462
14 for the operation of a cable system as a public enterprise.
- 15 (8) The North Carolina League of Municipalities.

16 **SECTION 3.(a) Interim Financing Provisions.** – The Local Government
17 Commission may not approve an application for financing under G.S. 160A-20 or
18 G.S. 160A-466 by a unit of local government or a joint agency for a communication system
19 that provides consumer Internet service at retail until the date a bill recommended to the 2011
20 Regular Session of the 2011 General Assembly by the Revenue Laws Study Committee as a
21 result of the study directed by Section 2 of this act becomes law or, if a bill is not recommended
22 by that Committee or is not enacted, until the adjournment of the 2011 Regular Session of the
23 2011 General Assembly. Consumer Internet service at retail does not include systems and
24 services provided by a unit of local government only for its own use or, pursuant to an
25 interlocal or service agreement, for use by other units or agencies of government.

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

- 28 (1) A unit of local government or a joint agency that, as of June 1, 2010, had
29 previously entered into a contract under G.S. 160A-20 or G.S. 160A-466 to
30 finance a communication system that provides consumer Internet service at
31 retail.
- 32 (2) A unit of local government that meets all of the following requirements:
 - 33 a. As of June 1, 2010, has contracted with an outside party for a high-speed
34 broadband Internet feasibility study. A high-speed broadband Internet
35 feasibility study is a study that addresses the potential market for a
36 publicly owned consumer Internet service at retail, explores a system
37 design and deployment strategy for various models and levels of service,
38 or identifies the investments in property and equipment necessary to
39 develop a system under various models and levels of service.
 - 40 b. On or before December 1, 2010, has taken formal action, as reflected in
41 the minutes of the city council's meetings, to instruct city staff to file an
42 application with the Local Government Commission to approve a
43 contract by the city to finance a communication system that provides
44 consumer Internet service at retail.
- 45 (3) The recipient of a federal grant, if the recipient stated in its grant application
46 that it would provide any matching funds required as a condition of
47 receiving the grant through financing under G.S. 160A-20.
- 48 (4) A unit of local government chosen by Google for its Fiber Project, if the
49 financing is needed to qualify as the Fiber Project.

50 **SECTION 3.(b) Interim Notice Requirements.** – A unit of local government that
51 plans to submit an application to the Local Government Commission during the period the

1 prohibition in subsection (a) of this section is in effect and whose application is eligible for
2 approval during this period because of the exclusion in subdivision (2) of that subsection must
3 hold a public hearing on the proposed application and must send written notice to each person
4 that provides consumer Internet service at retail within the unit of its intent to submit an
5 application. The notice must be sent at least 15 days before the date of a public hearing held on
6 the proposal. If the unit submits an application to the Local Government Commission after the
7 public hearing, the Local Government Commission must accept written and oral comments
8 from the providers the unit is required to notify under this subsection.

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

14 **SECTION 4.** This act is effective when it becomes law.