
HOUSE BILL No. 1298

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-3-8; IC 36-9-2-15.5.

Synopsis: Cable franchises. Prohibits a unit of local government from granting a franchise for the provision of video programming or other programming service on terms or conditions more favorable or less burdensome than those of any existing franchise. Specifies that a new franchise must impose on the new cable operator equivalent obligations concerning: (1) public, educational, or government access facilities; or (2) other requirements; imposed on an existing operator under an existing franchise.

Effective: July 1, 2005.

Whetstone, Austin

January 11, 2005, read first time and referred to Committee on Local Government.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1298



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-1-3-8 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Subject to subsection (b), a
- 3 unit does not have the following:
- 4 (1) The power to condition or limit its civil liability, except as
- 5 expressly granted by statute.
- 6 (2) The power to prescribe the law governing civil actions
- 7 between private persons.
- 8 (3) The power to impose duties on another political subdivision,
- 9 except as expressly granted by statute.
- 10 (4) The power to impose a tax, except as expressly granted by
- 11 statute.
- 12 (5) The power to impose a license fee greater than that reasonably
- 13 related to the administrative cost of exercising a regulatory power.
- 14 (6) The power to impose a service charge or user fee greater than
- 15 that reasonably related to reasonable and just rates and charges
- 16 for services.
- 17 (7) The power to regulate conduct that is regulated by a state



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agency, except as expressly granted by statute.

(8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.

(9) The power to prescribe a penalty of imprisonment for an ordinance violation.

(10) The power to prescribe a penalty of a fine as follows:

(A) More than ten thousand dollars (\$10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air program under IC 13-17-12-6.

(B) More than two thousand five hundred dollars (\$2,500) for any other ordinance violation.

(11) The power to invest money, except as expressly granted by statute.

(12) The power to order or conduct an election, except as expressly granted by statute.

(13) The power to grant a franchise (as defined in 47 U.S.C. 522(9)) for the provision of video programming (as defined in 47 U.S.C. 522(20)) or other programming service (as defined in 47 U.S.C. 522(14)) in an area in the unit's jurisdiction on terms or conditions more favorable or less burdensome than those of any existing franchise at the time the franchise is granted.

(b) A township does not have the following, except as expressly granted by statute:

(1) The power to require a license or impose a license fee.

(2) The power to impose a service charge or user fee.

(3) The power to prescribe a penalty.

SECTION 2. IC 36-9-2-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15.5. (a) As used in this section, "cable operator" has the meaning set forth in 47 U.S.C. 522(5).**

(b) As used in this section, "franchise" has the meaning set forth in 47 U.S.C. 522(9).

(c) As used in this section, "other programming service" has the meaning set forth in 47 U.S.C. 522(14).

(d) As used in this section, "video programming" has the meaning set forth in 47 U.S.C. 522(20).

(e) Except as provided in subsection (f), a unit may grant a nonexclusive franchise for video programming or other programming service in an area in the unit's jurisdiction.

(f) A unit may not grant a franchise for video programming or

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1 other programming service in an area in the unit's jurisdiction on
2 terms or conditions more favorable or less burdensome than those
3 of any existing franchise at the time the franchise is granted. A
4 franchise granted under this section must impose on the new cable
5 operator equivalent obligations concerning:
6 (1) public, educational, or government access facilities (as
7 defined in 47 U.S.C. 522(16)); and
8 (2) any other requirements;
9 imposed on an existing cable operator under an existing franchise.

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