

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1087 be amended to read as follows:

- 1 Page13, between lines 18 and 19, begin a new paragraph and insert:
- 2 "SECTION 6. IC 8-1-34-24, AS ADDED BY P.L.27-2006,
- 3 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2012]: Sec. 24. (a) Subject to ~~subsection~~ **subsections (e) and**
- 5 **(f)**, not later than forty-five (45) days after the end of each calendar
- 6 quarter, the holder shall pay to each unit included in the holder's
- 7 service area under a certificate issued under this chapter a franchise fee
- 8 equal to:
- 9 (1) the amount of gross revenue received from providing video
- 10 service in the unit during the most recent calendar quarter, as
- 11 determined under section 23 of this chapter; multiplied by
- 12 (2) a percentage equal to one (1) of the following:
- 13 (A) If a local franchise has never been in effect in the unit
- 14 before July 1, 2006, five percent (5%).
- 15 (B) If no local franchise is in effect in the unit on July 1, 2006,
- 16 but one (1) or more local franchises have been in effect in the
- 17 unit before July 1, 2006, the percentage of gross revenue paid
- 18 by the holder of the most recent local franchise in effect in the
- 19 unit, unless the unit elects to impose a different percentage,
- 20 which may not exceed five percent (5%).
- 21 (C) If there is one (1) local franchise in effect in the unit on
- 22 July 1, 2006, the percentage of gross revenue paid by the
- 23 holder of that local franchise as a franchise fee to the unit,
- 24 unless the unit elects to impose a different percentage, which

- 1           may not exceed five percent (5%). Upon the expiration of a  
 2           local franchise described in this clause, the percentage shall be  
 3           determined by the unit but may not exceed five percent (5%).  
 4           (D) If there is more than one (1) local franchise in effect with  
 5           respect to the unit on July 1, 2006, a percentage determined by  
 6           the unit, which may not exceed the greater of:  
 7           (i) five percent (5%); or  
 8           (ii) the percentage paid by a holder of any local franchise in  
 9           effect in the unit on July 1, 2006.
- 10          (b) If the holder provides video service to an unincorporated area in  
 11          Indiana, as described in section 23(e) of this chapter, the holder shall:  
 12          (1) calculate the franchise fee with respect to the unincorporated  
 13          area in accordance with subsection (a); and  
 14          (2) remit the franchise fee to the county in which the  
 15          unincorporated area is located.
- 16          If an unincorporated area served by the provider is located in one (1)  
 17          or more contiguous counties, the provider shall remit part of the  
 18          franchise fee calculated under subdivision (1) to each county having  
 19          territory in the unincorporated area served. The part of the franchise fee  
 20          remitted to a county must bear the same proportion to the total  
 21          franchise fee for the area, as calculated under subdivision (1), that the  
 22          number of subscribers in the county bears to the total number of  
 23          subscribers in the unincorporated area served.
- 24          (c) With each payment of a franchise fee to a unit under this section,  
 25          the holder shall include a statement explaining the basis for the  
 26          calculation of the franchise fee. A unit may review the books and  
 27          records of:  
 28          (1) the holder; or  
 29          (2) an affiliate of the holder, if appropriate;
- 30          to the extent necessary to ensure the holder's compliance with section  
 31          23 of this chapter in calculating the gross revenue upon which the  
 32          remitted franchise fee is based. Each party shall bear the party's own  
 33          costs of an examination under this subsection. If the holder and the unit  
 34          cannot agree on the amount of gross revenue on which the franchise fee  
 35          should be based, either party may petition the commission to determine  
 36          the amount of gross revenue on which the franchise fee should be  
 37          based. A determination of the commission under this subsection is  
 38          final, subject to the right of direct appeal by either party.
- 39          (d) A franchise fee owed by a holder to a unit under this section may  
 40          be passed through to, and collected from, the holder's subscribers in the  
 41          unit. To the extent allowed under ~~43 U.S.C. 542(c)~~, **47 U.S.C. 542(c)**,  
 42          the holder may identify as a separate line item on each regular bill  
 43          issued to a subscriber:  
 44          (1) the amount of the total bill assessed as a franchise fee under  
 45          this section; and  
 46          (2) the identity of the unit to which the franchise fee is paid.

1 (e) A holder that elects under section 21(b)(1) of this chapter to  
2 continue providing video service under a local franchise is not required  
3 to pay the franchise fee prescribed under this section, but shall pay any  
4 franchise fee imposed under the terms of the local franchise.

5 **(f) This subsection applies to video service provided in a**  
6 **calendar year beginning after December 31, 2012. The amount of**  
7 **each franchise fee determined under subsection (a) is reduced by**  
8 **the applicable percentage as follows:**

9 **(1) Twenty percent (20%) for video service provided in 2013.**

10 **(2) Forty percent (40%) for video service provided in 2014.**

11 **(3) Sixty percent (60%) for video service provided in 2015.**

12 **(4) Eighty percent (80%) for video service provided in 2016.**

13 **(5) One hundred percent (100%) for video service provided**  
14 **after December 31, 2016."**

15 Renumber all SECTIONS consecutively.

(Reference is to HB 1087 as printed January 28, 2012.)

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Representative Thompson