

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 381 be amended to read as follows:

- 1 Page 23, between lines 3 and 4, begin a new paragraph and
2 insert:
3 "SECTION 32. IC 36-1-3-8 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Subject to
5 subsection (b), a unit does not have the following:
6 (1) The power to condition or limit its civil liability, except as
7 expressly granted by statute.
8 (2) The power to prescribe the law governing civil actions
9 between private persons.
10 (3) The power to impose duties on another political subdivision,
11 except as expressly granted by statute.
12 (4) The power to impose a tax, except as expressly granted by
13 statute.
14 (5) The power to impose a license fee greater than that
15 reasonably related to the administrative cost of exercising a
16 regulatory power.
17 (6) The power to impose a service charge or user fee greater than
18 that reasonably related to reasonable and just rates and charges
19 for services.
20 (7) The power to regulate conduct that is regulated by a state
21 agency, except as expressly granted by statute.
22 (8) The power to prescribe a penalty for conduct constituting a
23 crime or infraction under statute.
24 (9) The power to prescribe a penalty of imprisonment for an
25 ordinance violation.

- 1 (10) The power to prescribe a penalty of a fine as follows:
2 (A) More than ten thousand dollars (\$10,000) for the
3 violation of an ordinance or a regulation concerning air
4 emissions adopted by a county that has received approval to
5 establish an air program under IC 13-17-12-6.
6 (B) More than two thousand five hundred dollars (\$2,500)
7 for any other ordinance violation.
8 (11) The power to invest money, except as expressly granted by
9 statute.
10 (12) The power to order or conduct an election, except as
11 expressly granted by statute.
12 **(13) The power to grant a franchise (as defined in 47 U.S.C.**
13 **522(9)) for the provision of video programming (as defined**
14 **in 47 U.S.C. 522(20)) or other programming service (as**
15 **defined in 47 U.S.C. 522(14)), including video over the**
16 **Internet protocol, in an area in the unit's jurisdiction on**
17 **terms or conditions more favorable or less burdensome than**
18 **those of any existing franchise at the time the franchise is**
19 **granted.**
20 (b) A township does not have the following, except as expressly
21 granted by statute:
22 (1) The power to require a license or impose a license fee.
23 (2) The power to impose a service charge or user fee.
24 (3) The power to prescribe a penalty.
25 SECTION 33. IC 36-9-2-15.5 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2005]: **Sec. 15.5. (a) As used in this section,**
28 **"cable operator" has the meaning set forth in 47 U.S.C. 522(5).**
29 **(b) As used in this section, "franchise" has the meaning set**
30 **forth in 47 U.S.C. 522(9).**
31 **(c) As used in this section, "other programming service" has**
32 **the meaning set forth in 47 U.S.C. 522(14).**
33 **(d) As used in this section, "video programming" has the**
34 **meaning set forth in 47 U.S.C. 522(20) and includes video over the**
35 **Internet protocol.**
36 **(e) Except as provided in subsection (f), a unit may grant a**
37 **nonexclusive franchise for video programming or other**
38 **programming service in an area in the unit's jurisdiction.**
39 **(f) A unit may not grant a franchise for video programming or**
40 **other programming service in an area in the unit's jurisdiction on**
41 **terms or conditions more favorable or less burdensome than those**
42 **of any existing franchise at the time the franchise is granted. A**
43 **franchise granted under this section must impose on the new cable**
44 **operator or provider of video services equivalent obligations**
45 **concerning:**
46 **(1) percentage on franchise fee;**
47 **(2) area of coverage and an existing franchise;**
48 **(3) public, educational, or government access facilities (as**
49 **defined in 47 U.S.C. 522(16)); and**
50 **(4) any other requirements;**
51 **imposed on an existing cable operator under an existing franchise.**
52 **(g) The requirements of this section apply to new entrants**

- 1 **providing video services over the Internet protocol."**
- 2 Renumber all SECTIONS consecutively.
(Reference is to ESB 381 as printed April 5, 2005)

Representative WOODRUFF