

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1315**

Citations Affected: IC 8-1-34-16; IC 8-1-34-22.

Synopsis: Video service franchises. Proposed conference committee report for EHB 1315. Provides that the obligations owed to private persons by a video service provider that terminates a local franchise in order to obtain a state-issued franchise do not include obligations: (1) arising out of the terminated local franchise; or (2) based on the gross income received by the provider in the service area covered by the terminated local franchise. **(This conference committee report: (1) removes provisions concerning sprinkler systems in health facilities; and (2) adds provisions concerning holders of state-issued video service franchises.)**

Effective: Upon passage.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1315 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 utilities and transportation.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 8-1-34-16, AS ADDED BY HEA 1279-2006,
- 6 SECTION 58, IS AMENDED TO READ AS FOLLOWS
- 7 [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Except as provided in
- 8 section 21 of this chapter, after June 30, 2006:
- 9 (1) the commission is the sole franchising authority (as defined in
- 10 47 U.S.C. 522(10)) for the provision of video service in Indiana;
- 11 and
- 12 (2) a unit may not:
- 13 (A) require a provider to obtain a separate franchise; or
- 14 (B) impose any fee, gross receipt tax, licensing requirement, rate
- 15 regulation, or build-out requirement on a provider;
- 16 except as authorized by this chapter.
- 17 (b) Except as provided in section 21 of this chapter, a person who
- 18 seeks to provide video service in Indiana after June 30, 2006, shall file
- 19 with the commission an application for a franchise. The application
- 20 shall be made on a form prescribed by the commission and must include
- 21 the following:

- 1 (1) A sworn affidavit, signed by an officer or another person
 2 authorized to bind the applicant, that affirms the following:
 3 (A) That the applicant has filed or will timely file with the
 4 Federal Communications Commission all forms required by the
 5 Federal Communications Commission before offering video
 6 service in Indiana.
 7 (B) That the applicant agrees to comply with all federal and state
 8 statutes, rules, and regulations applicable to the operation of the
 9 applicant's video service system.
 10 (C) That the applicant agrees to:
 11 (i) comply with any local ordinance or regulation governing the
 12 use of public rights-of-way in the delivery of video service; and
 13 (ii) recognize the police powers of a unit to enforce the
 14 ordinance or regulation.
 15 (D) If the applicant will terminate an existing local franchise
 16 under section 21 of this chapter, that the applicant agrees to
 17 perform any obligations owed to any private person, ~~under the~~
 18 ~~terminated franchise until such time as the local franchise would~~
 19 ~~otherwise terminate or expire~~, as required by section 22 of this
 20 chapter.
 21 (2) The applicant's legal name and any name under which the
 22 applicant does or will do business in Indiana, as authorized by the
 23 secretary of state.
 24 (3) The address and telephone number of the applicant's principal
 25 place of business, along with contact information for the person
 26 responsible for ongoing communications with the commission.
 27 (4) The names and titles of the applicant's principal officers.
 28 (5) The legal name, address, and telephone number of the
 29 applicant's parent company, if any.
 30 (6) A description of each service area in Indiana to be served by the
 31 applicant. A service area described under this subdivision may
 32 include an unincorporated area in Indiana.
 33 (7) The expected date for the deployment of video service in each
 34 of the areas identified in subdivision (6).
 35 (8) A list of other states in which the applicant provides video
 36 service.
 37 (9) If the applicant will terminate an existing local franchise under
 38 section 21(b) of this chapter, a copy of the written notice sent to the
 39 municipality under section 21(c) of this chapter.
 40 (10) Any other information the commission considers necessary to:
 41 (A) monitor the provision of video service to Indiana customers;
 42 and
 43 (B) prepare the commission's annual report to the regulatory
 44 flexibility committee under IC 8-1-2.6-4.
 45 This subsection does not empower the commission to require an
 46 applicant to disclose confidential and proprietary business plans and
 47 other confidential information without adequate protection of the
 48 information. The commission shall exercise all necessary caution to
 49 avoid disclosure of confidential information supplied under this

1 subsection.

2 (c) The commission may charge a fee for filing an application under
3 this section. Any fee charged by the commission under this subsection
4 may not exceed the commission's actual costs to process and review the
5 application under section 17 of this chapter.

6 SECTION 2. IC 8-1-34-22, AS ADDED BY HEA 1279-2006,
7 SECTION 58, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) A provider that elects
9 to terminate a local franchise under section 21 of this chapter remains
10 subject to the contractual rights, duties, and obligations incurred by the
11 provider under the terms and conditions of the terminated local
12 franchise that are owed to any private person. including a subscriber.

13 (b) The obligations that a provider owes to a private person under
14 subsection (a) include any obligations based on the gross income
15 received by the provider:

16 (1) after the provider becomes a holder of a certificate under this
17 chapter; and

18 (2) for video service provided in the service area covered by the
19 terminated local franchise;

20 if, under the terms of the terminated local franchise, the obligations
21 would have been based on the gross income received by the provider for
22 video service provided in the service area covered by the terminated
23 local franchise.

24 (c) (b) All liens, security interests, royalties, and other contracts,
25 rights, and interests arising out of the terminated local franchise and
26 owed to a private person, shall:

27 (1) continue in full force and effect without the need for renewal,
28 extension, or continuance; and

29 (2) be paid or performed by the provider after becoming a holder of
30 a certificate under this chapter. and

31 (3) apply as though the gross revenue of the provider continued to
32 be generated under the terminated local franchise with respect to
33 any revenue generated in the service area covered by the terminated
34 local franchise.

35 (d) (c) The commission shall condition the issuance or renewal of a
36 certificate under this chapter on a provider's payment and performance
37 of the rights, duties, and obligations described in this section. until the
38 time the terminated local franchise would ordinarily terminate or expire
39 if the provider had not made the election under section 21 of this
40 chapter. In applying for an initial certificate or a renewal certificate
41 under this chapter, a provider shall agree to pay or perform the
42 obligations described in this section, as required by section 16(b)(1)(D)
43 of this chapter.

44 (e) (d) A private person that claims to be:

45 (1) owed any rights, duties, or obligations by a holder under this
46 section; and

47 (2) aggrieved by a holder's alleged violation of this section;
48 may bring an action in a court with jurisdiction to enforce the rights,
49 duties, or obligations claimed to be owed to the person.

- 1 ~~(f)~~ (e) As used in this section, "private person" does not include:
2 (1) the unit that issued the terminated local franchise;
3 (2) a political subdivision (as defined in IC 36-1-2-13) not
4 described in subdivision (1); or
5 (3) any official, agent, or employee of:
6 (A) the unit that issued the terminated local franchise; or
7 (B) a political subdivision described in subdivision (2);
8 in the individual's official capacity.
9 **SECTION 3. An emergency is declared for this act.**
 (Reference is to EHB 1315 as reprinted February 28, 2006.)

Conference Committee Report
on
Engrossed House Bill 1315

Signed by:

Representative Thompson
Chairperson

Senator Hershman

Representative Hoy

Senator Hume

House Conferees

Senate Conferees