

SENATE BILL 1278

By Burchett

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 52; Title 7, Chapter 59 and Title 65, Chapter 21, relative to cable television.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated 7-52-103(c), is amended by deleting the language "or other business relationship", wherever it may appear.

SECTION 2. Tennessee Code Annotated, Section 7-52-103(d), is amended by deleting the language "or other business relationship" wherever it may appear.

SECTION 3. Tennessee Code Annotated, Section 7-52-602(4), is amended by deleting the final sentence of the subdivision and substituting instead the following language:

A municipal electric system may provide additional services only after approval by a two-thirds (2/3) majority vote of the legislative body of the municipality in which the municipal electric system is located and by a public referendum.

SECTION 4. Tennessee Code Annotated, Section 7-52-603(a)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following language as a new subdivision (a)(1):

(1) A municipal electric system shall establish a separate division to deliver any of the services authorized under this part. The division shall maintain its own accounting and record-keeping system. A municipal electric system may not subsidize the operation of the division with revenues from the municipal electric system's power or other utility operations and the municipal electric system shall not be permitted to lend funds to the division. The separate division established to deliver the services authorized by this part shall submit to an independent audit which shall include an examination to determine whether the newly created division has been subsidized by

revenues of the municipal electric system's other operations. The audit may not be performed by the same auditor that audits or prepares the municipal electric system's financial statements. The audit shall be filed with the comptroller within ninety (90) days of the end of the division's first fiscal year and shall disclose the following information regarding the division:

(A) Any services sold by the division;

(B) Any costs allocated to the new division by the municipal electric system;

(C) A description of the methods and procedures used to identify and allocate costs disclosed pursuant to subdivision (a)(1)(B);

(D) Any services provided by the other divisions of the municipal electric system to the new division;

(E) The price in dollars of each service disclosed pursuant to subdivision (a)(1)(D);

(F) A description of the methods and procedures used to determine the price of services provided to the new division by the municipal electric system's other divisions;

(G) Any services provided by the municipal electric system to the new division;

(H) The price in dollars of each service disclosed pursuant to subdivision (a)(1)(G); and

(I) A description of the methods and procedures used to determine the price of services provided to the municipal electric system by the new division.

SECTION 5. Tennessee Code Annotated, Section 65-21-105, is amended by deleting the section in its entirety and by substituting instead the following:

65-21-105.

(a) No municipally or cooperatively owned utility shall request or receive from a telegraph or telephone corporation, or a cable television provided as defined in Section 602(5) of the Federal Cable Policy Act of 1984, in exchange for permission for pole attachments as provided by 47 U.S.C. Section 224(a)(4), any payment in excess of the amount that would be authorized pursuant to 47 U.S.C. Section 224, as amended.

(b) No municipally or cooperatively owned utility shall request or receive from a telegraph or telephone corporation any in-kind payment in exchange for or as a condition upon a grant of permission for pole attachments.

(c) A municipally owned or cooperatively owned utility shall provide access to its poles and conduit located in public rights of way to any telegraph and telephone corporation or cable television provider who requests a pole attachment agreement on terms and conditions consistent with this section and other applicable law. Such pole attachment agreements may be refused only on the basis that the provision of the requested access is not technically feasible. Any telegraph and telephone corporation or cable television provider who is denied such an agreement may bring a suit for a declaratory judgment or injunction, or both, to determine and enforce its rights to such an agreement in any chancery or district court of competent jurisdiction. A municipally owned or cooperatively owned utility shall apportion the costs of providing usable space on its poles among all entities according to the percentage of usable space required for each entity; but the costs of any relocation of existing users shall be borne by the entity or entities creating the necessity for such relocation.

SECTION 6. Tennessee Code Annotated, Section 7-59-203, is amended by deleting the section in its entirety and substituting instead the following:

No municipality or county shall grant any overlapping franchise for cable service within its jurisdiction unless such applicant receives approval by two thirds (2/3) majority vote of the legislative body of the municipality or county, and no municipality or county shall grant any overlapping franchises for cable service within its jurisdiction on terms of conditions more favorable or less burdensome than those in any existing franchise within such municipality or county.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.