



House of Representatives

File No. 644

General Assembly

February Session, 2006

(Reprint of File No. 172)

Substitute House Bill No. 5265
As Amended by House Amendment
Schedules "A", "B" and "C"

Approved by the Legislative Commissioner
April 28, 2006

AN ACT CONCERNING COMMUNITY ACCESS TELEVISION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) There is established a
2 state-wide community antenna television advisory council to assist
3 local community antenna television advisory councils in the
4 performance of their functions and disseminate information to local
5 advisory councils that is relevant to the interests of customers of
6 community antenna television companies. The state-wide advisory
7 council shall consist of the following members: (1) Three appointed by
8 the Governor; (2) two appointed by the speaker of the House of
9 Representatives; (3) two appointed by the president pro tempore of the
10 Senate; (4) one appointed by the majority leader of the House of
11 Representatives; (5) one appointed by the majority leader of the Senate;
12 (6) two appointed by the minority leader of the House of
13 Representatives; and (7) two appointed by the minority leader of the
14 Senate. The terms of the members of the state-wide advisory council
15 shall be coterminous with their appointing authority. Not later than
16 January 1, 2007, and annually thereafter, the members shall elect a

17 chairperson of said council from among the members of the state-wide
18 advisory council.

19 Sec. 2. Subsection (d) of section 16-331 of the general statutes is
20 amended by adding subdivision (7) as follows (*Effective October 1,*
21 *2006*):

22 (NEW) (7) Notwithstanding the provisions of this subsection, if at
23 any time after the grant of an initial or renewal term of a franchise, the
24 community antenna television company and the third-party nonprofit
25 community access provider reach an agreement that a community
26 antenna television company will provide a capital contribution to such
27 provider in a mutually agreeable amount solely for the purpose of the
28 upgrade or replacement of capital equipment, the Department of
29 Public Utility Control shall grant a two-year extension of such
30 franchise term, provided the community antenna television company
31 commits to not pass through said capital contribution in subscriber
32 rates or community access fees. In a franchise area with more than one
33 community access provider, an agreement shall be deemed to be
34 reached when two-thirds or more of the community access providers
35 within that franchise independently reach agreement with the
36 community antenna television company. Only those community access
37 providers reaching agreement shall receive the funding mutually
38 agreed upon pursuant to this subdivision. Such extension shall not be
39 a contested case proceeding and shall be applicable to no more than
40 one time per renewed franchise term.

41 Sec. 3. Subsection (f) of section 16-331 of the general statutes is
42 repealed and the following is substituted in lieu thereof (*Effective*
43 *October 1, 2006*):

44 (f) Each applicant for a certificate shall finance the reasonable costs
45 of a community needs assessment, conducted by an independent
46 consultant and developed jointly by the department, the Office of
47 Consumer Counsel, the local advisory council and the applicant,
48 which assessment shall analyze a community's future cable-related

49 needs and, if applicable, shall provide the department with assistance
50 in analyzing an operator's past performance, as defined in subsection
51 (d) of [section 16-333/] this section. The department shall supervise the
52 assessment and provide the independent consultant with the date
53 upon which the assessment shall be completed and filed with the
54 department. Such community needs assessment shall be conducted in
55 lieu of the requirement in subdivision (12) of subsection (c) of section
56 16-333-39 of the regulations of Connecticut state agencies. In its final
57 decision, the department shall state the reasons for not implementing
58 any key recommendations made in any such needs assessment. The
59 provisions of this subsection shall not apply to a franchise area which
60 is subject to effective competition, as defined in 47 USC 543, as from
61 time to time amended, at the time the application is received by the
62 department.

63 Sec. 4. Subsection (g) of section 16-331 of the general statutes is
64 repealed and the following is substituted in lieu thereof (*Effective*
65 *October 1, 2006*):

66 (g) Each certificate of public convenience and necessity for a
67 franchise issued pursuant to this section shall be nonexclusive, and
68 each such certificate issued for a franchise in any area of the state
69 where an existing franchise is currently operating shall not contain
70 more favorable terms or conditions than those imposed on the existing
71 franchise. This subsection shall not apply to the length of the term of
72 such certification as may be determined pursuant to subsection (d) of
73 this section. A certificate may require a franchise to enter into good
74 faith negotiations to facilitate community access television
75 interconnection with an existing or potential competitor franchise.

76 Sec. 5. Subsection (d) of section 16-331a of the general statutes is
77 repealed and the following is substituted in lieu thereof (*Effective*
78 *October 1, 2006*):

79 (d) Each company or organization shall conduct outreach programs
80 and promote its community access services. Such outreach and

81 promotion may include, but not be limited to (1) broadcasting cross-
82 channel video announcements, (2) distributing information throughout
83 the franchise area and not solely to its subscribers, (3) including
84 community access information in its regular marketing publications,
85 (4) broadcasting character-generated text messages or video
86 announcements on barker or access channels, (5) making speaking
87 engagements, [and] (6) holding open receptions at its community
88 access facilities, and (7) in multitown franchise areas, encouraging the
89 formation and development of local community access studios
90 operated by volunteers or nonprofit operating groups.

91 Sec. 6. Subsection (h) of section 16-331a of the general statutes is
92 repealed and the following is substituted in lieu thereof (*Effective*
93 *October 1, 2006*):

94 (h) Upon the request of the Office of Consumer Counsel or the
95 franchise's advisory council, and for good cause shown the department
96 shall require an organization responsible for community access
97 operations to have an independent audit conducted at the expense of
98 the organization. For purposes of this subsection, "good cause" may
99 include, but not be limited to, the failure or refusal of such
100 organization (1) to account for and reimburse the community access
101 programming budget for its commercial use of community access
102 programming facilities, equipment or staff, or for the allocation of such
103 facilities, equipment or staff to functions not directly related to the
104 community access operations of the franchise, (2) to carry over
105 unexpended community access programming budget accounts at the
106 end of each fiscal year, (3) to properly maintain community access
107 programming facilities or equipment in good repair, or (4) to plan for
108 the replacement of community access programming equipment made
109 obsolete by technological advances. In response to any such request,
110 the department shall state, in writing, the reasons for its determination.

111 Sec. 7. Section 16-331a of the general statutes is amended by adding
112 subsection (o) as follows (*Effective October 1, 2006*):

113 (NEW) (o) Each company or organization shall consult with its
 114 advisory council in the formation of a community access programming
 115 policy, the adoption of the community access programming budget
 116 and the allocation of capital equipment and community access
 117 programming resources.

118 Sec. 8. Section 16-331c of the 2006 supplement to the general statutes
 119 is repealed and the following is substituted in lieu thereof (*Effective*
 120 *October 1, 2006*):

121 Each community antenna television company, as defined in section
 122 16-1, as amended, shall annually contribute to the advisory council in
 123 its franchise area an amount not less than two thousand dollars [. An]
 124 and to the state-wide advisory council an amount not less than two
 125 hundred dollars. A local advisory council may at its option receive any
 126 or all of its funding through in-kind services of the community
 127 antenna television company. [Each] The state-wide advisory council
 128 and each local advisory council shall annually, on January thirty-first,
 129 provide the Department of Public Utility Control with an accounting
 130 of any funding or services received.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	16-331(d)
Sec. 3	<i>October 1, 2006</i>	16-331(f)
Sec. 4	<i>October 1, 2006</i>	16-331(g)
Sec. 5	<i>October 1, 2006</i>	16-331a(d)
Sec. 6	<i>October 1, 2006</i>	16-331a(h)
Sec. 7	<i>October 1, 2006</i>	16-331a
Sec. 8	<i>October 1, 2006</i>	16-331c

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill as amended establishes a statewide cable advisory council. To the extent legislators serve on the council, Legislative Management may incur costs for legislator mileage reimbursement (currently 44.5 cents per mile). Such costs are budgeted as part of the agency's normal budgetary resources.

It also requires each cable TV company to contribute \$200 annually to the statewide council. There are an estimated 24 cable franchises in the state. While the bill requires DPUC to audit the statewide cable advisory council, the funding received by the council is not deposited into a state account. Therefore, there is no fiscal impact.

House "A" requires the cable company to agree not to pass on the costs of its contribution in rates or community access fees as a condition of the franchise extension. This has no fiscal impact.

House "B" requires the governor and legislative leaders to appoint the member of the statewide advisory council. This has no fiscal impact.

House "C" increases the number of council members appointed by the House and Senate minority leaders. This has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5265 (as amended by House “A,” “B” and “C”)******AN ACT CONCERNING COMMUNITY ACCESS TELEVISION.*****SUMMARY:**

By law, the Department of Public Utility Control (DPUC) determines whether a cable TV company or a nonprofit organization will administer public, educational, and government (“community”) access programming in the company’s franchise area. If a nonprofit organization has this responsibility, this bill allows the DPUC to extend the company’s franchise by two years if it agrees with the nonprofit organization to provide funds solely to upgrade or replace capital equipment. The bill requires the company or nonprofit organization to consult with the local cable advisory organization on certain issues and broadens what can be included in community access outreach programs.

The bill establishes a statewide cable advisory council and specifies its membership and functions. It requires each cable TV company to contribute \$200 annually to the statewide council. It requires the statewide council to report to DPUC annually on January 31 accounting for any funding or services received.

By law, a company must conduct a needs assessment when it seeks a franchise certificate, unless it is subject to effective competition as defined by federal law. The bill requires DPUC to state its reason for not implementing any key recommendations in its final decision on the franchise application. It also allows DPUC to require that the company enter into good faith negotiations to facilitate community access

television interconnection with its existing or potential cable competitors in the franchise area as a condition of granting the certificate.

By law, DPUC must require a nonprofit community access organization to undergo an audit, at its expense, for good cause, if the Office of Consumer Council or the local advisory council requests the audit. The bill specifies what constitutes good cause. It also requires DPUC to state its reasons when responding to the request for the audit.

*House Amendment "A" requires the cable company to agree not to pass on the costs of its contribution in rates or community access fees as a condition of the franchise extension; the original bill required the company to agree to pass on the costs in rates. It also makes a minor change to the interconnection requirements.

*House Amendment "B" requires the governor and legislative leaders to appoint the members of the statewide advisory council, rather than having DPUC establish the council by regulation

*House Amendment "C" increases, from one to two, the number of council member appointed by the House and Senate minority leaders.

EFFECTIVE DATE: October 1, 2006

EXTENSION OF CABLE FRANCHISE

The bill allows DPUC to extend a cable company's initial or renewal franchise by two years if the company agrees with the nonprofit community access provider for the franchise to provide funds to upgrade or replace capital equipment for public access. The company must agree to not to pass on the contribution in subscribers' rates or community access fees. If there is more than one community access providers in the franchise area, an agreement is reached when at least two-thirds of them independently reach an agreement with the company. Only the providers that reach an agreement with the company are eligible to receive the additional funding. The DPUC's decision must be made in a non-contested case. In the case of renewal

franchises, there can only be one extension per franchise term.

CONSULTATION WITH LOCAL ADVISORY COUNCIL

The bill requires the company or nonprofit organization to consult with the local cable advisory council in (1) establishing community access policies, (2) the adoption of a community access programming budget, and (3) the allocation of capital equipment and community access programming resources.

OUTREACH PROGRAMS

By law, the company or nonprofit organization must conduct an outreach program. The program may encourage the formation and development of local community access studios operated by volunteers or nonprofit groups in multitown franchise areas.

STATEWIDE CABLE ADVISORY COUNCIL

The bill establishes a statewide cable advisory council to (1) help local advisory councils perform their functions and (2) disseminate information to the local councils that is relevant to cable company customers. The council consists of 13 members, three appointed by the governor, two each by the Senate president pro tempore and the House speaker, one each by house and Senate majority leader and two each by House and Senate minority leaders. The members' terms are coterminous with those of their appointing authorities. The members must elect a chairperson by January 1 annually.

AUDITS OF NONPROFIT COMMUNITY ACCESS PROVIDERS

The bill specifies that good cause warranting an audit of a nonprofit community access provider can include the organization's failure or refusal to:

1. account for and reimburse the community access programming budget when (a) the access facilities, equipment, or staff are used for commercial purposes or (b) the facilities, equipment, or staff are allocated to functions not directly related to the franchise's access operations;

2. carry over unspent access programming funds to the next fiscal year;
3. properly maintain access facilities and equipment in good repair; or
4. plan for the replacement of access equipment made obsolete by technological change.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/14/2006)

Government Administration and Elections Committee

Joint Favorable

Yea 17 Nay 0 (04/18/2006)