

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 1077 (Delegate Valderrama)
Commerce and Government Matters

Cable Television - Low Power Television - Universal Access

This bill requires a cable operator to carry in its entirety, as a condition of exercising its franchise, video programming by: (1) qualified low power stations that broadcast to the area covered by the franchising authority; and (2) other low power stations, broadcasting in other areas, that the franchising authority identifies in accordance with the bill.

The bill is to be construed prospectively and may not be applied or interpreted to have any effect on or application to a cable franchising agreement in effect before October 1, 2001. Current obligations or contract rights may not be impaired by the bill.

Fiscal Summary

State Effect: The bill would not substantively change State activities or operations.

Local Effect: The bill's requirements could be handled with existing budgeted resources.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill authorizes a franchising authority to identify low power stations for inclusion on its own initiative or in response to a petition of potential cable users and specifies criteria for identifying low power stations. A low power station that has been denied access in violation of the bill may bring a civil action to enforce its rights under the bill, and to seek other appropriate relief, including monetary damages and injunction.

A court may award costs and reasonable attorney's fees to prevailing plaintiffs. In addition, a franchising authority may bring an action to enforce the bill's requirements and to seek appropriate relief, including injunction. The franchising authority may require a cable operator and a low power station to submit to mediation or binding arbitration of a dispute under the bill.

Current Law: Counties and municipal corporations are authorized to enter into one or more cable franchise agreements as franchising authorities. No State statutory provision requires a franchising authority to require franchisees to carry low power video programming.

Background: Under federal law, if there are not sufficient full power local commercial television stations, a cable operator with 35 or fewer usable activated channels is required to carry one qualified low power station. A cable operator with a capacity of more than 35 usable activated channels is required to carry 2 qualified low power stations.

Federal law authorizes a franchising authority, in a franchise agreement, to require: (1) a cable operator to designate channel capacity for public, educational, or governmental (PEG) use; and (2) channel capacity on institutional networks be designated for educational or governmental use. A franchising authority may adopt rules and procedures for PEG use and educational and governmental use channels.

Small Business Effect: Small low power television stations would have greater access to viewers and, in turn, to advertising revenues.

Additional Information

Prior Introductions: Identical bills were introduced in the 2001 and 2000 sessions. HB 843 of 2001 received an unfavorable report from the House Commerce and Government Matters Committee. HB 1433 of 2000 was not reported from the House Rules and Executive Nominations Committee.

Cross File: None.

Information Source(s): Calvert, Caroline, Howard, Montgomery, and Prince George's counties; Department of Legislative Services

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