



# CITY CLERK, CLERK OF COUNCIL

The following Resolution was adopted by the Council of the City of Cleveland

April 2, 2007

Res. No. 548-07.  
By Mayor Jackson and Council Members Zane, Coats, Westbrook, Cleveland, Pierce Scott, Turner, Britt, Polensck, Conwell, Brancatelli, Lewis and Cummins.

An emergency resolution opposing Ohio Senate Bill 117 and any state legislation that would preempt local government regulation of video service providers using the right-of-way in their jurisdiction, and which would eliminate and severely limit franchise fee payments and PEG channel and access support currently existing under federal law and further urging members of the Ohio Legislature to oppose SB 117 and any other similar legislation that impinges on the City's home rule authority.

Whereas, the regulatory authority to require a local franchise to provide video services stems from the City of Cleveland's constitutional home rule powers over its local rights-of-way; and

Whereas, the City of Cleveland welcomes competition of video service and broadband and encourages new providers of these services to invest in new communications and video programming infrastructure in the City and to provide competitive video and broadband service to all of the City's residents and businesses; and

Whereas, Senate Bill ("SB") 117 has been introduced in the Ohio Legislature to enable telecommunications companies to enter the video service market with minimal regulation and accountability in order to compete with incumbent cable operators by providing competitive video service to Ohio residents of their choice; and

Whereas, current federal statutory law regulating the provision of video service maintains a fair and equitable balance between local government interests, powers and obligations, and the interests of incumbent cable operators as well as new providers of competitive video service, and provides a reasonable mechanism by which competitive video service providers can obtain local permission to provide video services; and

Whereas, SB 117 would eliminate local and state regulation of cable and other video service providers using the City's rights-of-way and replace it with minimal oversight and enforcement powers by the Ohio Director of Commerce; and

Whereas, SB 117 would permit cable operators to unilaterally abrogate existing cable contracts with municipalities even if no new competitive video service is offered in those communities; and

Whereas, despite claims that SB 117 preserves important local government interests such as control over rights-of-way, franchise fee payments and Public, Educational and Governmental (PEG) access channels, the terms of SB 117 unreasonably restrict and severely impair these and other important local interests; and

Whereas, it is incumbent on the City of Cleveland to protect the cable and video service interests of all its residents with respect to reasonable build-out requirements, local PEG programming, payment of franchise fees for use of public rights-of-way, and rights-of-way management; and

Whereas, SB 117 would cut the City's franchise fees paid by cable operators and video service providers in exchange for using the City's rights-of-way by 10-12% or more going forward, and would severely impair the City's ability to audit cable and competitive video service providers' franchise fee payments; and

Whereas, SB 117 would substantially reduce, if not eliminate, the City's Public, Educational and Governmental (PEG) access channels and would entirely eliminate all other PEG funding and other services, such as free cable service to City buildings and public schools entirely; and

Whereas, SB 117 would severely impair the City's ability to require and enforce basic customer service standards in cable television and other video services; and

Whereas, the provisions of SB 117 requiring a competitive video ser-

vice provider to build-out its system to include service to lower income residents is such that very few lower income City residents will receive competitive video and broadband service; and

Whereas, although SB 117 states that current local franchise requirements present "barriers to entry" and "inordinate delays", companies such as AT&T and Verizon are not yet providing competitive video service, and has not committed to a date by which it will begin providing competitive service, in Ohio communities that have already granted AT&T permission to provide such service; and

Whereas, this resolution constitutes an emergency measure for the immediate preservation of public peace, property, health or safety, now, therefore,

Be it resolved by the Council of the City of Cleveland:

**Section 1.** That this Council hereby opposes Ohio Senate Bill 117 and any state legislation that would preempt local government regulation of video service providers using the right-of-way in their jurisdiction, and that would eliminate and severely limit franchise fee payments and PEG channel and access support currently existing under federal law and further urges members of the Ohio Legislature to oppose SB 117 and any other similar legislation that impinges on the City's home rule authority.

**Section 2.** That the Clerk of Council is hereby directed to forward certified copies of this resolution to Governor Strickland and all members of the Ohio legislature.

**Section 3.** That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

I, Emily Lipovan, City Clerk, Clerk of Council of the City of Cleveland, do hereby certify that the foregoing is a true and correct copy of Resolution No. 548-07 adopted by the Council of the City of Cleveland, April 2, 2007; Effective April 2, 2007.

WITNESS my hand and seal at Cleveland, Ohio this 5th day of April, 2007.

  
City Clerk, Clerk of Council