

1 AN ACT concerning cable television.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Counties Code is amended by changing
5 Section 5-1095 as follows:

6 (55 ILCS 5/5-1095) (from Ch. 34, par. 5-1095)

7 Sec. 5-1095. Community antenna television systems;
8 satellite transmitted television programming.

9 (a) The County Board may license, tax or franchise the
10 business of operating a community antenna television system
11 or systems within the County and outside of a municipality,
12 as defined in Section 1-1-2 of the Illinois Municipal Code.

13 When an area is annexed to a municipality, the annexing
14 municipality shall thereby become the franchising authority
15 with respect to that portion of any community antenna
16 television system that, immediately before annexation, had
17 provided cable television services within the annexed area
18 under a franchise granted by the county, and the owner of
19 that community antenna television system shall thereby be
20 authorized to provide cable television services within the
21 annexed area under the terms and provisions of the existing
22 franchise. In that instance, the franchise shall remain in
23 effect until, by its terms, it expires, except that any
24 franchise fees payable under the franchise shall be payable
25 only to the county for a period of 5 years or until, by its
26 terms, the franchise expires, whichever occurs first. After
27 the 5 year period, any franchise fees that are payable under
28 the franchise shall be paid to the annexing municipality. In
29 any instance in which a duly franchised community antenna
30 television system is providing cable television services
31 within the annexing municipality at the time of annexation,

1 the annexing municipality may permit that franchisee to
2 extend its community antenna television system to the annexed
3 area under terms and conditions that are no more burdensome
4 nor less favorable to that franchisee than those imposed
5 under any community antenna television franchise applicable
6 to the annexed area at the time of annexation. The
7 authorization to extend cable television service to the
8 annexed area and any community antenna television system
9 authorized to provide cable television services within the
10 annexed area at the time of annexation shall not be subject
11 to the provisions of subsection (e) of this Section.

12 (b) "Community antenna television system" as used in
13 this Section, means any facility which is constructed in
14 whole or in part in, on, under or over any highway or other
15 public place and which is operated to perform for hire the
16 service of receiving and amplifying the signals broadcast by
17 one or more television stations and redistributing such
18 signals by wire, cable or other means to members of the
19 public who subscribe to such service except that such term
20 does not include (i) any system which serves fewer than 50
21 subscribers or (ii) any system which serves only the
22 residents of one or more apartment dwellings under common
23 ownership, control or management, and commercial
24 establishments located on the premises of such dwellings.

25 (c) The authority hereby granted does not include the
26 authority to license or franchise telephone companies subject
27 to the jurisdiction of the Illinois Commerce Commission or
28 the Federal Communications Commission in connection with
29 furnishing circuits, wires, cables or other facilities to the
30 operator of a community antenna television system.

31 The County Board may, in the course of franchising such
32 community antenna television system, grant to such franchisee
33 the authority and the right and permission to use all public
34 streets, rights of way, alleys, ways for public service

1 facilities, parks, playgrounds, school grounds, or other
2 public grounds, in which such county may have an interest,
3 for the construction, installation, operation, maintenance,
4 alteration, addition, extension or improvement of a community
5 antenna television system.

6 Any charge imposed by a community antenna television
7 system franchised pursuant to this Section for the raising or
8 removal of cables or lines to permit passage on, to or from a
9 street shall not exceed the reasonable costs of work
10 reasonably necessary to safely permit such passage. Pursuant
11 to subsections (h) and (i) of Section 6 of Article VII of the
12 Constitution of the State of Illinois, the General Assembly
13 declares the regulation of charges which may be imposed by
14 community antenna television systems for the raising or
15 removal of cables or lines to permit passage on, to or from
16 streets is a power or function to be exercised exclusively by
17 the State and not to be exercised or performed concurrently
18 with the State by any unit of local government, including any
19 home rule unit.

20 The County Board may, upon written request by the
21 franchisee of a community antenna television system, exercise
22 its right of eminent domain solely for the purpose of
23 granting an easement right no greater than 8 feet in width,
24 extending no greater than 8 feet from any lot line for the
25 purpose of extending cable across any parcel of property in
26 the manner provided for by the law of eminent domain,
27 provided, however, such franchisee deposits with the county
28 sufficient security to pay all costs incurred by the county
29 in the exercise of its right of eminent domain.

30 Except as specifically provided otherwise in this
31 Section, this Section is not a limitation on any home rule
32 county.

33 (d) The General Assembly finds and declares that
34 satellite-transmitted television programming should be

1 available to those who desire to subscribe to such
2 programming and that decoding devices should be obtainable at
3 reasonable prices by those who are unable to obtain
4 satellite-transmitted television programming through duly
5 franchised community antenna television systems.

6 In any instance in which a person is unable to obtain
7 satellite-transmitted television programming through a duly
8 franchised community antenna television system either because
9 the municipality and county in which such person resides has
10 not granted a franchise to operate and maintain a community
11 antenna television system, or because the duly franchised
12 community antenna television system operator does not make
13 cable television services available to such person, any
14 programming company that delivers satellite-transmitted
15 television programming in scrambled or encrypted form shall
16 ensure that devices for decryption of such programming are
17 made available to such person, through the local community
18 antenna television operator or directly, for purchase or
19 lease at prices reasonably related to the cost of manufacture
20 and distribution of such devices.

21 (e) The General Assembly finds and declares that, in
22 order to ensure that community antenna television services
23 are provided in an orderly, competitive and economically
24 sound manner, the best interests of the public will be served
25 by the establishment of certain minimum standards and
26 procedures for the granting of additional cable television
27 franchises.

28 Subject to the provisions of this subsection, the
29 authority granted under subsection (a) hereof shall include
30 the authority to license, franchise and tax more than one
31 cable operator to provide community antenna television
32 services within the territorial limits of a single
33 franchising authority. For purposes of this subsection (e),
34 the term:

1 (i) "Existing cable television franchise" means a
2 community antenna television franchise granted by a
3 county which is in use at the time such county receives
4 an application or request by another cable operator for a
5 franchise to provide cable antenna television services
6 within all or any portion of the territorial area which
7 is or may be served under the existing cable television
8 franchise.

9 (ii) "Additional cable television franchise" means
10 a franchise pursuant to which community antenna
11 television services may be provided within the
12 territorial areas, or any portion thereof, which may be
13 served under an existing cable television franchise.

14 (iii) "Franchising Authority" is defined as that
15 term is defined under Section 602(9) of the Cable
16 Communications Policy Act of 1984, Public Law 98-549.

17 (iv) "Cable operator" is defined as that term is
18 defined under Section 602(4) of the Cable Communications
19 Policy Act of 1984, Public Law 98-549.

20 Before granting an additional cable television franchise,
21 the franchising authority shall:

22 (1) Give written notice to the owner or operator of
23 any other community antenna television system franchised
24 to serve all or any portion of the territorial area to be
25 served by such additional cable television franchise,
26 identifying the applicant for such additional franchise
27 and specifying the date, time and place at which the
28 franchising authority shall conduct public hearings to
29 consider and determine whether such additional cable
30 television franchise should be granted.

31 (2) Conduct a public hearing to determine the
32 public need for such additional cable television
33 franchise, the capacity of public rights-of-way to
34 accommodate such additional community antenna television

1 services, the potential disruption to existing users of
2 public rights-of-way to be used by such additional
3 franchise applicant to complete construction and to
4 provide cable television services within the proposed
5 franchise area, the long term economic impact of such
6 additional cable television system within the community,
7 and such other factors as the franchising authority shall
8 deem appropriate.

9 (3) Determine, based upon the foregoing factors,
10 whether it is in the best interest of the county to grant
11 such additional cable television franchise.

12 (4) If the franchising authority shall determine
13 that it is in the best interest of the county to do so,
14 it may grant the additional cable television franchise.
15 Except as provided in paragraph (5) of this subsection
16 (e), no such additional cable television franchise shall
17 be granted under terms or conditions more favorable or
18 less burdensome to the applicant than those required
19 under the existing cable television franchise, including
20 but not limited to terms and conditions pertaining to the
21 territorial extent of the franchise, system design,
22 technical performance standards, construction schedules,
23 performance bonds, standards for construction and
24 installation of cable television facilities, service to
25 subscribers, public educational and governmental access
26 channels and programming, production assistance,
27 liability and indemnification, and franchise fees.

28 (5) Unless the existing cable television franchise
29 provides that any additional cable television franchise
30 shall be subject to the same terms or substantially
31 equivalent terms and conditions as those of the existing
32 cable television franchise, the franchising authority may
33 grant an additional cable television franchise under
34 different terms and conditions than those of the existing

1 franchise, in which event the franchising authority shall
2 enter into good faith negotiations with the existing
3 franchisee and shall, within 120 days after the effective
4 date of the additional cable television franchise, modify
5 the existing cable television franchise in a manner and
6 to the extent necessary to ensure that neither the
7 existing cable television franchise nor the additional
8 cable television franchise, each considered in its
9 entirety, provides a competitive advantage over the
10 other, provided that prior to modifying the existing
11 cable television franchise, the franchising authority
12 shall have conducted a public hearing to consider the
13 proposed modification. No modification in the terms and
14 conditions of the existing cable television franchise
15 shall oblige the existing cable television franchisee (1)
16 to make any additional payment to the franchising
17 authority, including the payment of any additional
18 franchise fee, (2) to engage in any additional
19 construction of the existing cable television system or,
20 (3) to modify the specifications or design of the
21 existing cable television system; and the inclusion of
22 the factors identified in items (2) and (3) shall not be
23 considered in determining whether either franchise
24 considered in its entirety, has a competitive advantage
25 over the other except to the extent that the additional
26 franchisee provides additional video or data services or
27 the equipment or facilities necessary to generate and or
28 carry such service. No modification in the terms and
29 conditions of the existing cable television franchise
30 shall be made if the existing cable television franchisee
31 elects to continue to operate under all terms and
32 conditions of the existing franchise.

33 If within the 120 day period the franchising
34 authority and the existing cable television franchisee

1 are unable to reach agreement on modifications to the
2 existing cable television franchise, then the franchising
3 authority shall modify the existing cable television
4 franchise, effective 45 days thereafter, in a manner, and
5 only to the extent, that the terms and conditions of the
6 existing cable television franchise shall no longer
7 impose any duty or obligation on the existing franchisee
8 which is not also imposed under the additional cable
9 television franchise; however, if by the modification the
10 existing cable television franchisee is relieved of
11 duties or obligations not imposed under the additional
12 cable television franchise, then within the same 45 days
13 and following a public hearing concerning modification of
14 the additional cable television franchise within that 45
15 day period, the franchising authority shall modify the
16 additional cable television franchise to the extent
17 necessary to insure that neither the existing cable
18 television franchise nor the additional cable television
19 franchise, each considered in its entirety, shall have a
20 competitive advantage over the other.

21 No county shall be subject to suit for damages based upon
22 the county's determination to grant or its refusal to grant
23 an additional cable television franchise, provided that a
24 public hearing as herein provided has been held and the
25 franchising authority has determined that it is in the best
26 interest of the county to grant or refuse to grant such
27 additional franchise, as the case may be.

28 It is declared to be the law of this State, pursuant to
29 paragraphs (h) and (i) of Section 6 of Article VII of the
30 Illinois Constitution, that the establishment of minimum
31 standards and procedures for the granting of additional cable
32 television franchises as provided in this subsection (e) is
33 an exclusive State power and function that may not be
34 exercised concurrently by a home rule unit.

1 (Source: P.A. 90-14, eff. 7-1-97; 90-285, eff. 7-31-97.)

2 Section 10. The Illinois Municipal Code is amended by
3 changing Section 11-42-11 as follows:

4 (65 ILCS 5/11-42-11) (from Ch. 24, par. 11-42-11)

5 Sec. 11-42-11. Community antenna television systems;
6 satellite transmitted television programming.

7 (a) The corporate authorities of each municipality may
8 license, franchise, and tax the business of operating a
9 community antenna television system as hereinafter defined.
10 In municipalities with less than 2,000,000 inhabitants, the
11 corporate authorities may, under the limited circumstances
12 set forth in this Section, own (or lease as lessee) and
13 operate a community antenna television system; provided that
14 a municipality may not acquire, construct, own, or operate a
15 community antenna television system for the use or benefit of
16 private consumers or users, and may not charge a fee for that
17 consumption or use, unless the proposition to acquire,
18 construct, own, or operate a cable antenna television system
19 has been submitted to and approved by the electors of the
20 municipality in accordance with subsection (f). Before
21 acquiring, constructing, or commencing operation of a
22 community antenna television system, the municipality must
23 ~~shall~~ comply with the following:

24 (1) Give written notice to the owner or operator of
25 any other community antenna television system franchised
26 to serve all or any portion of the territorial area to be
27 served by the municipality's community antenna television
28 system, specifying the date, time, and place at which the
29 municipality shall conduct public hearings to consider
30 and determine whether the municipality should acquire,
31 construct, or commence operation of a community antenna
32 television system. The public hearings shall be

1 conducted at least 14 days after this notice is given.

2 (2) Publish a notice of the hearing in 2 or more
3 newspapers published in the county, city, village,
4 incorporated town, or town, as the case may be. If there
5 is no such newspaper, then notice shall be published in
6 any 2 or more newspapers published in the county and
7 having a general circulation throughout the community.
8 The public hearings shall be conducted at least 14 days
9 after this notice is given.

10 (3) Conduct a public hearing to determine the means
11 by which construction, maintenance, and operation of the
12 system will be financed, including whether the use of tax
13 revenues or other fees will be required.

14 (b) The words "community antenna television system"
15 shall mean any facility which is constructed in whole or in
16 part in, on, under or over any highway or other public place
17 and which is operated to perform for hire the service of
18 receiving and amplifying the signals broadcast by one or more
19 television stations and redistributing such signals by wire,
20 cable or other means to members of the public who subscribe
21 to such service; except that such definition shall not
22 include (i) any system which serves fewer than fifty
23 subscribers, or (ii) any system which serves only the
24 residents of one or more apartment dwellings under common
25 ownership, control or management, and commercial
26 establishments located on the premises of such dwellings.

27 (c) The authority hereby granted does not include
28 authority to license, franchise or tax telephone companies
29 subject to jurisdiction of the Illinois Commerce Commission
30 or the Federal Communications Commission in connection with
31 the furnishing of circuits, wires, cables, and other
32 facilities to the operator of a community antenna television
33 system.

34 The corporate authorities of each municipality may, in

1 the course of franchising such community antenna television
2 system, grant to such franchisee the authority and the right
3 and permission to use all public streets, rights of way,
4 alleys, ways for public service facilities, parks,
5 playgrounds, school grounds, or other public grounds, in
6 which such municipality may have an interest, for the
7 construction, installation, operation, maintenance,
8 alteration, addition, extension or improvement of a community
9 antenna television system.

10 Any charge imposed by a community antenna television
11 system franchised pursuant to this Section for the raising or
12 removal of cables or lines to permit passage on, to or from a
13 street shall not exceed the reasonable costs of work
14 reasonably necessary to safely permit such passage. Pursuant
15 to subsections (h) and (i) of Section 6 of Article VII of the
16 Constitution of the State of Illinois, the General Assembly
17 declares the regulation of charges which may be imposed by
18 community antenna television systems for the raising or
19 removal of cables or lines to permit passage on, to or from
20 streets is a power or function to be exercised exclusively by
21 the State and not to be exercised or performed concurrently
22 with the State by any unit of local government, including any
23 home rule unit.

24 The municipality may, upon written request by the
25 franchisee of a community antenna television system, exercise
26 its right of eminent domain solely for the purpose of
27 granting an easement right no greater than 8 feet in width,
28 extending no greater than 8 feet from any lot line for the
29 purpose of extending cable across any parcel of property in
30 the manner provided by the law of eminent domain, provided,
31 however, such franchisee deposits with the municipality
32 sufficient security to pay all costs incurred by the
33 municipality in the exercise of its right of eminent domain.

34 (d) The General Assembly finds and declares that

1 satellite-transmitted television programming should be
2 available to those who desire to subscribe to such
3 programming and that decoding devices should be obtainable at
4 reasonable prices by those who are unable to obtain
5 satellite-transmitted television programming through duly
6 franchised community antenna television systems.

7 In any instance in which a person is unable to obtain
8 satellite-transmitted television programming through a duly
9 franchised community antenna television system either because
10 the municipality and county in which such person resides has
11 not granted a franchise to operate and maintain a community
12 antenna television system, or because the duly franchised
13 community antenna television system operator does not make
14 cable television services available to such person, any
15 programming company that delivers satellite-transmitted
16 television programming in scrambled or encrypted form shall
17 ensure that devices for description of such programming are
18 made available to such person, through the local community
19 antenna television operator or directly, for purchase or
20 lease at prices reasonably related to the cost of manufacture
21 and distribution of such devices.

22 (e) The General Assembly finds and declares that, in
23 order to ensure that community antenna television services
24 are provided in an orderly, competitive and economically
25 sound manner, the best interests of the public will be served
26 by the establishment of certain minimum standards and
27 procedures for the granting of additional cable television
28 franchises.

29 Subject to the provisions of this subsection, the
30 authority granted under subsection (a) hereof shall include
31 the authority to license, franchise and tax more than one
32 cable operator to provide community antenna television
33 services within the corporate limits of a single franchising
34 authority. For purposes of this subsection (e), the term:

1 (i) "Existing cable television franchise" means a
2 community antenna television franchise granted by a
3 municipality which is in use at the time such
4 municipality receives an application or request by
5 another cable operator for a franchise to provide cable
6 antenna television services within all or any portion of
7 the territorial area which is or may be served under the
8 existing cable television franchise.

9 (ii) "Additional cable television franchise" means
10 a franchise pursuant to which community antenna
11 television services may be provided within the
12 territorial areas, or any portion thereof, which may be
13 served under an existing cable television franchise.

14 (iii) "Franchising Authority" is defined as that
15 term is defined under Section 602(9) of the Cable
16 Communications Policy Act of 1984, Public Law 98-549, but
17 does not include any municipality with a population of
18 1,000,000 or more.

19 (iv) "Cable operator" is defined as that term is
20 defined under Section 602(4) of the Cable Communications
21 Policy Act of 1984, Public Law 98-549.

22 Before granting an additional cable television franchise,
23 the franchising authority shall:

24 (1) Give written notice to the owner or operator of
25 any other community antenna television system franchised
26 to serve all or any portion of the territorial area to be
27 served by such additional cable television franchise,
28 identifying the applicant for such additional franchise
29 and specifying the date, time and place at which the
30 franchising authority shall conduct public hearings to
31 consider and determine whether such additional cable
32 television franchise should be granted.

33 (2) Conduct a public hearing to determine the
34 public need for such additional cable television

1 franchise, the capacity of public rights-of-way to
2 accommodate such additional community antenna television
3 services, the potential disruption to existing users of
4 public rights-of-way to be used by such additional
5 franchise applicant to complete construction and to
6 provide cable television services within the proposed
7 franchise area, the long term economic impact of such
8 additional cable television system within the community,
9 and such other factors as the franchising authority shall
10 deem appropriate.

11 (3) Determine, based upon the foregoing factors,
12 whether it is in the best interest of the municipality to
13 grant such additional cable television franchise.

14 (4) If the franchising authority shall determine
15 that it is in the best interest of the municipality to do
16 so, it may grant the additional cable television
17 franchise. Except as provided in paragraph (5) of this
18 subsection (e), no such additional cable television
19 franchise shall be granted under terms or conditions more
20 favorable or less burdensome to the applicant than those
21 required under the existing cable television franchise,
22 including but not limited to terms and conditions
23 pertaining to the territorial extent of the franchise,
24 system design, technical performance standards,
25 construction schedules, performance bonds, standards for
26 construction and installation of cable television
27 facilities, service to subscribers, public educational
28 and governmental access channels and programming,
29 production assistance, liability and indemnification, and
30 franchise fees.

31 (5) Unless the existing cable television franchise
32 provides that any additional cable television franchise
33 shall be subject to the same terms or substantially
34 equivalent terms and conditions as those of the existing

1 cable television franchise, the franchising authority may
2 grant an additional cable television franchise under
3 different terms and conditions than those of the existing
4 franchise, in which event the franchising authority shall
5 enter into good faith negotiations with the existing
6 franchisee and shall, within 120 days after the effective
7 date of the additional cable television franchise, modify
8 the existing cable television franchise in a manner and
9 to the extent necessary to ensure that neither the
10 existing cable television franchise nor the additional
11 cable television franchise, each considered in its
12 entirety, provides a competitive advantage over the
13 other, provided that prior to modifying the existing
14 cable television franchise, the franchising authority
15 shall have conducted a public hearing to consider the
16 proposed modification. No modification in the terms and
17 conditions of the existing cable television franchise
18 shall oblige the existing cable television franchisee (1)
19 to make any additional payment to the franchising
20 authority, including the payment of any additional
21 franchise fee, (2) to engage in any additional
22 construction of the existing cable television system or,
23 (3) to modify the specifications or design of the
24 existing cable television system; and the inclusion of
25 the factors identified in items (2) and (3) shall not be
26 considered in determining whether either franchise
27 considered in its entirety, has a competitive advantage
28 over the other except to the extent that the additional
29 franchisee provides additional video or data services or
30 the equipment or facilities necessary to generate and or
31 carry such service. No modification in the terms and
32 conditions of the existing cable television franchise
33 shall be made if the existing cable television franchisee
34 elects to continue to operate under all terms and

1 conditions of the existing franchise.

2 If within the 120 day period the franchising
3 authority and the existing cable television franchisee
4 are unable to reach agreement on modifications to the
5 existing cable television franchise, then the franchising
6 authority shall modify the existing cable television
7 franchise, effective 45 days thereafter, in a manner, and
8 only to the extent, that the terms and conditions of the
9 existing cable television franchise shall no longer
10 impose any duty or obligation on the existing franchisee
11 which is not also imposed under the additional cable
12 television franchise; however, if by the modification the
13 existing cable television franchisee is relieved of
14 duties or obligations not imposed under the additional
15 cable television franchise, then within the same 45 days
16 and following a public hearing concerning modification of
17 the additional cable television franchise within that 45
18 day period, the franchising authority shall modify the
19 additional cable television franchise to the extent
20 necessary to insure that neither the existing cable
21 television franchise nor the additional cable television
22 franchise, each considered in its entirety, shall have a
23 competitive advantage over the other.

24 No municipality shall be subject to suit for damages
25 based upon the municipality's determination to grant or its
26 refusal to grant an additional cable television franchise,
27 provided that a public hearing as herein provided has been
28 held and the franchising authority has determined that it is
29 in the best interest of the municipality to grant or refuse
30 to grant such additional franchise, as the case may be.

31 It is declared to be the law of this State, pursuant to
32 paragraphs (h) and (i) of Section 6 of Article VII of the
33 Illinois Constitution, that the establishment of minimum
34 standards and procedures for the granting of additional cable

1 television franchises by municipalities with a population
2 less than 1,000,000 as provided in this subsection (e) is an
3 exclusive State power and function that may not be exercised
4 concurrently by a home rule unit.

5 (f) No municipality may acquire, construct, own, or
6 operate a community antenna television system unless the
7 corporate authorities adopt an ordinance. The ordinance must
8 set forth the action proposed; describe the plant, equipment,
9 and property to be acquired or constructed; and specifically
10 describe the manner in which the construction, acquisition,
11 and operation of the system will be financed.

12 The ordinance may not take effect until the question of
13 acquiring, construction, owning, or operating a community
14 antenna television system has been submitted to the electors
15 of the municipality at a regular election and approved by a
16 majority of the electors voting on the question. The
17 corporate authorities must certify the question to the proper
18 election authority, which must submit the question at an
19 election in accordance with the Election Code.

20 The question must be submitted in substantially the
21 following form:

22 Shall the ordinance authorizing the municipality to
23 (insert action authorized by ordinance) take effect?

24 The votes must be recorded as "Yes" or "No".

25 If a majority of electors voting on the question vote in
26 the affirmative, the ordinance shall take effect.

27 Not more than 30 or less than 15 days before the date of
28 the referendum, the municipal clerk must publish the
29 ordinance at least once in one or more newspapers published
30 in the municipality or, if no newspaper is published in the
31 municipality, in one or more newspapers of general
32 circulation within the municipality.

33 (Source: P.A. 90-285, eff. 7-31-97; 91-648, eff. 1-1-00.)