

Senator John W. Hickman proposes the following substitute bill:

TELECOMMUNICATIONS AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: John W. Hickman

LONG TITLE

General Description:

This bill modifies the Municipal Cable Television and Public Telecommunications Service Act.

Highlighted Provisions:

This bill:

- ▶ requires a municipality or an interlocal entity under certain circumstances to comply with specified provisions of the Municipal Cable Television and Public Telecommunications Service Act; and

- ▶ modifies certain bonding requirements in the Municipal Cable Television and Public Telecommunications Service Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-18-105, as enacted by Chapter 83, Laws of Utah 2001

10-18-302, as enacted by Chapter 83, Laws of Utah 2001



26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **10-18-105** is amended to read:

28 **10-18-105. Scope of chapter.**

29 (1) Nothing in this chapter authorizes any county or other political subdivision of this
30 state to:

31 (a) provide:

32 (i) a cable television service; or

33 (ii) a public telecommunications service; or

34 (b) purchase, lease, construct, maintain, or operate a facility for the purpose of
35 providing:

36 (i) a cable television service; or

37 (ii) a public telecommunications service.

38 (2) ~~Nothing in~~ Except as provided in Subsection (3), this chapter [applies] does not
39 apply to a municipality purchasing, leasing, constructing, or equipping facilities:

40 (a) that are designed to provide services within the municipality; and

41 (b) that the municipality:

42 (i) uses for internal municipal government purposes; or

43 (ii) by written contract, leases, sells capacity in, or grants other similar rights to a
44 private provider to use the facilities in connection with a private provider offering:

45 (A) cable television services; or

46 (B) public telecommunications services.

47 (3) (a) As used in this Subsection (3), "municipal entity" means:

48 (i) a municipality; or

49 (ii) an entity created pursuant to an agreement:

50 (A) under Title 11, Chapter 13, Interlocal Cooperation Act; and

51 (B) to which a municipality is a party.

52 (b) Notwithstanding Subsection (2), a municipal entity shall comply with Subsection
53 (3)(c) if the municipal entity purchases, leases, constructs, or equips facilities that the
54 municipal entity by written contract leases, sells capacity in, or grants other similar rights to a
55 private provider to use the facilities in connection with a private provider offering:

56 (i) cable television services; or

57 (ii) public telecommunications services.

58 (c) A municipal entity described in Subsection (3)(b) shall, with respect to an action
 59 described in Subsection (3)(b), comply with the obligations imposed on a municipality
 60 pursuant to:

61 (i) Section 10-18-302; and

62 (ii) Subsections 10-18-303(3) and (4).

63 Section 2. Section **10-18-302** is amended to read:

64 **10-18-302. Bonding authority.**

65 (1) [~~The~~] In accordance with Title 11, Chapter 14, Utah Municipal Bond Act, the
 66 legislative body of a municipality may by resolution determine to issue one or more revenue
 67 bonds or general obligation bonds to finance the capital costs for facilities necessary to provide
 68 to subscribers:

69 (a) a cable television service; or

70 (b) a public telecommunications service.

71 (2) The resolution described in Subsection (1) shall:

72 (a) describe the purpose for which the indebtedness is to be created; and

73 (b) specify the dollar amount of the one or more bonds proposed to be issued.

74 (3) (a) A revenue bond issued under this section shall be secured and paid for ~~H~~ **[sotely]** :

74a **(i) h**

75 from the revenues generated by the municipality from providing:

76 ~~H~~ **[(+)] (A) h** cable television services with respect to revenue bonds issued to finance
 76a facilities

77 for the municipality's cable television services; and

78 ~~H~~ **[(+)] (B) h** public telecommunications services with respect to revenue bonds issued to
 78a finance

79 facilities for the municipality's public telecommunications services ~~H~~ **[-]** ; **AND**

79a **(ii) NOTWITHSTANDING SUBSECTION (3)(b) AND SUBSECTION 10-18-303(3)(a), FROM**
 79b **REVENUES GENERATED UNDER TITLE 59, CHAPTER 12, SALES AND USE TAX ACT, IF:**

79c **(A) NOTWITHSTANDING SUBSECTION 11-14-2(2) h AND EXCEPT AS PROVIDED IN**

79c1 **SUBSECTIONS (4) AND (5) h , THE REVENUE BOND IS APPROVED BY**

79d **THE REGISTERED VOTERS IN AN ELECTION HELD:**

79e **(I) EXCEPT AS PROVIDED IN SUBSECTION (3)(a)(ii)(A)(II), PURSUANT TO THE PROVISIONS**
 79f **OF TITLE 11, CHAPTER 14, UTAH MUNICIPAL BOND ACT, THAT GOVERN BOND ELECTIONS; AND**

79g **(II) NOTWITHSTANDING SUBSECTION 11-14-4(2), AT A REGULAR GENERAL ELECTION;**

79h **(B) THE REVENUES DESCRIBED IN THIS SUBSECTION (3)(a)(ii) ARE PLEDGED AS SECURITY**
 79i **FOR THE REVENUE BOND; AND**

79j **(C) THE MUNICIPALITY OR MUNICIPALITIES ANNUALLY APPROPRIATE THE REVENUES h**

79k **H DESCRIBED IN THIS SUBSECTION (3)(a)(ii) TO SECURE AND PAY THE REVENUE BOND ISSUED**
 79l **UNDER THIS SECTION. H**

80 (b) **H [A] EXCEPT AS PROVIDED IN SUBSECTION (3)(a)(ii), A H** municipality may not pay the
 80a origination, financing, or other carrying costs
 81 associated with the one or more revenue bonds issued under this section from the general funds
 82 or other enterprise funds of the municipality.

82a **H (4)(a) AS USED IN THIS SUBSECTION (4), "MUNICIPAL ENTITY" MEANS AN ENTITY**
 82b **CREATED PURSUANT TO AN AGREEMENT:**

82c **(i) UNDER TITLE 11, CHAPTER 13, INTERLOCAL COOPERATION ACT; AND**
 82d **(ii) TO WHICH A MUNICIPALITY IS A PARTY.**

82e **(b) THE REQUIREMENTS OF SUBSECTION (3)(a)(ii)(A) DO NOT APPLY TO A MUNICIPALITY**
 82f **OR MUNICIPAL ENTITY THAT ISSUES REVENUE BONDS, OR TO A MUNICIPALITY THAT IS A**
 82g **MEMBER OF A MUNICIPAL ENTITY THAT ISSUES REVENUE BONDS, IF:**

82h **(i) ON OR BEFORE MARCH 2, 2004, THE MUNICIPALITY THAT IS ISSUING REVENUE BONDS**
 82i **OR THAT IS A MEMBER OF A MUNICIPAL ENTITY THAT IS ISSUING REVENUE BONDS HAS**
 82j **PUBLISHED THE NOTICE DESCRIBED IN SUBSECTION (4)(b)(iii):**

82k **(ii) ON OR BEFORE APRIL 15, 2004, THE MUNICIPALITY THAT IS ISSUING REVENUE BONDS**
 82l **OR THAT IS A MEMBER OF A MUNICIPAL ENTITY THAT IS ISSUING REVENUE BONDS MAKES THE**
 82m **DECISION TO PLEDGE THE REVENUES DESCRIBED IN SUBSECTION (3)(a)(ii) AS SECURITY FOR**
 82n **THE REVENUE BONDS DESCRIBED IN THIS SUBSECTION (4)(b)(iii):**

82o **(iii) THE MUNICIPALITY THAT IS ISSUING THE REVENUE BONDS OR THE MUNICIPALITY**
 82p **THAT IS A MEMBER OF THE MUNICIPAL ENTITY THAT IS ISSUING THE REVENUE BONDS HAS:**

82q **(A) HELD A PUBLIC HEARING FOR WHICH PUBLIC NOTICE WAS GIVEN BY PUBLICATION OF**
 82r **THE NOTICE IN A NEWSPAPER PUBLISHED IN THE MUNICIPALITY OR IN A NEWSPAPER OF**
 82s **GENERAL CIRCULATION WITHIN THE MUNICIPALITY FOR TWO CONSECUTIVE WEEKS, WITH THE**
 82t **FIRST PUBLICATION BEING NOT LESS THAN 14 DAYS BEFORE THE PUBLIC HEARING; AND**

82u **(B) THE NOTICE IDENTIFIES:**

82v **(I) THAT THE NOTICE IS GIVEN PURSUANT TO TITLE 11, CHAPTER 14, UTAH MUNICIPAL**
 82w **BOND ACT;**

82x **(II) THE PURPOSE FOR THE BONDS TO BE ISSUED;**

82y **(III) THE MAXIMUM AMOUNT OF THE REVENUES DESCRIBED IN SUBSECTION (3)(a)(ii) THAT**
 82z **WILL BE PLEDGED IN ANY FISCAL YEAR;**

82aa **(IV) THE MAXIMUM NUMBER OF YEARS THAT THE PLEDGE WILL BE IN EFFECT; AND**

82ab **(V) THE TIME, PLACE, AND LOCATION FOR THE PUBLIC HEARING; AND**

82ac **(iv) EXCEPT WITH RESPECT TO A MUNICIPALITY THAT ISSUED BONDS PRIOR TO MARCH 1,**
 82ad **2004, NOT MORE THAN 50% OF THE AVERAGE ANNUAL DEBT SERVICE OF ALL REVENUE BONDS**
 82ae **DESCRIBED IN THIS SECTION TO PROVIDE SERVICE THROUGHOUT THE MUNICIPALITY OR**
 82af **MUNICIPAL ENTITY MAY BE PAID FROM THE REVENUES DESCRIBED IN SUBSECTION (3)(a)(ii).**

82ag **(5) ON OR AFTER JULY 1, 2007, THE REQUIREMENTS OF SUBSECTION (3)(a)(ii)(A) DO NOT**
 82ah **APPLY TO A MUNICIPALITY THAT ISSUES REVENUE BONDS IF:**

- 82ai **(a) THE MUNICIPALITY THAT IS ISSUING THE REVENUE BONDS HAS:**
- 82aj **(i) HELD A PUBLIC HEARING FOR WHICH PUBLIC NOTICE WAS GIVEN BY PUBLICATION OF**
- 82ak **THE NOTICE IN A NEWSPAPER PUBLISHED IN THE MUNICIPALITY OR IN A NEWSPAPER OF**
- 82al **GENERAL CIRCULATION WITHIN THE MUNICIPALITY FOR TWO CONSECUTIVE WEEKS, WITH THE**
- 82am **FIRST PUBLICATION BEING NOT LESS THAN 14 DAYS BEFORE THE PUBLIC HEARING; AND**
- 82an **(ii) THE NOTICE IDENTIFIES:**
- 82ao **(A) THAT THE NOTICE IS GIVEN PURSUANT TO TITLE 11, CHAPTER 14, UTAH MUNICIPAL**
- 82ap **BOND ACT;**
- 82aq **(B) THE PURPOSE FOR THE BONDS TO BE ISSUED;**
- 82ar **(C) THE MAXIMUM AMOUNT OF THE REVENUES DESCRIBED IN SUBSECTION (3)(a)(ii) THAT**
- 82as **WILL BE PLEDGED IN ANY FISCAL YEAR;**
- 82at **(D) THE MAXIMUM NUMBER OF YEARS THAT THE PLEDGE WILL BE IN EFFECT; AND**
- 82au **(E) THE TIME, PLACE, AND LOCATION FOR THE PUBLIC HEARING; AND**
- 82av **(b) EXCEPT WITH RESPECT TO A MUNICIPALITY THAT ISSUED BONDS PRIOR TO MARCH 1,**
- 82aw **2004, NOT MORE THAN 50% OF THE AVERAGE ANNUAL DEBT SERVICE OF ALL REVENUE BONDS**
- 82ax **DESCRIBED IN THIS SECTION TO PROVIDE SERVICE THROUGHOUT THE MUNICIPALITY OR**
- 82ay **MUNICIPAL ENTITY MAY BE PAID FROM THE REVENUES DESCRIBED IN SUBSECTION (3)(a)(ii).**
- 82az **(6) A MUNICIPALITY THAT ISSUES BONDS PURSUANT TO THIS SECTION MAY NOT MAKE OR**
- 82ba **GRANT ANY UNDUE OR UNREASONABLE PREFERENCE OR ADVANTAGE TO ITSELF OR TO ANY**
- 82bb **PRIVATE PROVIDER OF:**
- 82bc **(a) CABLE TELEVISION SERVICES; OR**
- 82bd **(b) PUBLIC TELECOMMUNICATIONS SERVICES. ^h**

Legislative Review Note

as of 2-9-04 11:02 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel