

**Representative Stephen H. Urquhart** proposes the following substitute bill:

1                                   **TELECOMMUNICATIONS AMENDMENTS**

2   2004 GENERAL SESSION

3   STATE OF UTAH

4                                   **Sponsor: John W. Hickman**

5 

---

---

**LONG TITLE**

6  
7 **General Description:**

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

10 **Highlighted Provisions:**

11           This bill:

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

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

17 **Monies Appropriated in this Bill:**

18           None

19 **Other Special Clauses:**

20           None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23           **10-18-105**, as enacted by Chapter 83, Laws of Utah 2001

24           **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 ~~[solely]~~:

75 (i) from the revenues generated by the municipality from providing:

76 ~~[(i)]~~ (A) cable television services with respect to revenue bonds issued to finance  
77 facilities for the municipality's cable television services; and

78 ~~[(ii)]~~ (B) public telecommunications services with respect to revenue bonds issued to  
79 finance facilities for the municipality's public telecommunications services[-]; and

80 (ii) notwithstanding Subsection (3)(b) and Subsection 10-18-303(3)(a), from revenues  
81 generated under Title 59, Chapter 12, Sales and Use Tax Act, if:

82 (A) notwithstanding Subsection 11-14-2(2) and except as provided in Subsections (4)  
83 and (5), the revenue bond is approved by the registered voters in an election held:

84 (I) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title  
85 11, Chapter 14, Utah Municipal Bond Act, that govern bond elections; and

86 (II) notwithstanding Subsection 11-14-4(2), at a regular general election;

87 (B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the

88 revenue bond; and

89 (C) the municipality or municipalities annually appropriate the revenues described in  
90 this Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.

91 (b) [A] Except as provided in Subsection (3)(a)(ii), a municipality may not pay the  
92 origination, financing, or other carrying costs associated with the one or more revenue bonds  
93 issued under this section from the general funds or other enterprise funds of the municipality.

94 (4) (a) As used in this Subsection (4), "municipal entity" means an entity created  
95 pursuant to an agreement:

96 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

97 (ii) to which a municipality is a party.

98 (b) The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or  
99 municipal entity that issues revenue bonds, or to a municipality that is a member of a municipal  
100 entity that issues revenue bonds, if:

101 (i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that is  
102 a member of a municipal entity that is issuing revenue bonds has published the first notice  
103 described in Subsection (4)(b)(iii);

104 (ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or that  
105 is a member of a municipal entity that is issuing revenue bonds makes the decision to pledge  
106 the revenues described in Subsection (3)(a)(ii) as security for the revenue bonds described in  
107 this Subsection (4)(b)(ii);

108 (iii) the municipality that is issuing the revenue bonds or the municipality that is a  
109 member of the municipal entity that is issuing the revenue bonds has:

110 (A) held a public hearing for which public notice was given by publication of the  
111 notice in a newspaper published in the municipality or in a newspaper of general circulation  
112 within the municipality for two consecutive weeks, with the first publication being not less  
113 than 14 days before the public hearing; and

114 (B) the notice identifies:

115 (I) that the notice is given pursuant to Title 11, Chapter 14, Utah Municipal Bond Act;

116 (II) the purpose for the bonds to be issued;

117 (III) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will  
118 be pledged in any fiscal year;

119 (IV) the maximum number of years that the pledge will be in effect; and  
120 (V) the time, place, and location for the public hearing;  
121 (iv) the municipal entity that issues revenue bonds:  
122 (A) adopts a final financing plan;  
123 (B) in accordance with Title 63, Chapter 2, Government Records Access and  
124 Management Act, makes available to the public at the time the municipal entity adopts the final  
125 financing plan:  
126 (I) the final financing plan; and  
127 (II) all contracts entered into by the municipal entity, except as protected by Title 63,  
128 Chapter 2, Government Records Access and Management Act;  
129 (v) any municipality that is a member of a municipal entity described in Subsection  
130 (4)(b)(iv):  
131 (A) not less than 30 calendar days after the municipal entity complies with Subsection  
132 (4)(b)(iv)(B), hold a final public hearing;  
133 (B) provides notice, at the time the municipality schedules the final public hearing, to  
134 any person who has provided to the municipality a written request for notice; and  
135 (C) makes all reasonable efforts to provide fair opportunity for oral testimony by all  
136 interested parties; and  
137 (vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not  
138 more than 50% of the average annual debt service of all revenue bonds described in this section  
139 to provide service throughout the municipality or municipal entity may be paid from the  
140 revenues described in Subsection (3)(a)(ii).  
141 (5) On or after July 1, 2007, the requirements of Subsection (3)(a)(ii)(A) do not apply  
142 to a municipality that issues revenue bonds if:  
143 (a) the municipality that is issuing the revenue bonds has:  
144 (i) held a public hearing for which public notice was given by publication of the notice  
145 in a newspaper published in the municipality or in a newspaper of general circulation within  
146 the municipality for two consecutive weeks, with the first publication being not less than 14  
147 days before the public hearing; and  
148 (ii) the notice identifies:  
149 (A) that the notice is given pursuant to Title 11, Chapter 14, Utah Municipal Bond Act;

- 150           (B) the purpose for the bonds to be issued;  
151           (C) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be  
152 pledged in any fiscal year;  
153           (D) the maximum number of years that the pledge will be in effect; and  
154           (E) the time, place, and location for the public hearing; and  
155           (b) except with respect to a municipality that issued bonds prior to March 1, 2004, not  
156 more than 50% of the average annual debt service of all revenue bonds described in this section  
157 to provide service throughout the municipality or municipal entity may be paid from the  
158 revenues described in Subsection (3)(a)(ii).  
159           (6) A municipality that issues bonds pursuant to this section may not make or grant any  
160 undue or unreasonable preference or advantage to itself or to any private provider of:  
161           (a) cable television services; or  
162           (b) public telecommunications services.