



ACTION ALERT – S. 1504

Broadband Investment and Consumer Choice Act

- **Contact your congressional leaders today – tell them to oppose S.1504**
- Provide them with the real facts.
- Tell them about the real impact – the real harm – that this legislation would cause to local governments and to local residents.
- Inform them of the real benefits that local franchising provides to and within your community today!

Senators Ensign and McCain have introduced the Broadband Investment and Consumer Choice Act (S. 1504). This legislation is a blatant attempt to eviscerate the lawful power of state and local elected leaders, to undermine the principles of federalism, and to create an unnecessary and unwarranted subsidy – out of the budgets of local governments -- for an already healthy and wealthy private telecommunications sector. It has been estimated by one NATOA member that the bill would immediately cost local governments on the order of \$300 million per year in lost franchise fees alone, and much more in the future.

Your action is required NOW!!! The telephone and cable industry incumbents are telling members of Congress that local governments are not harmed by this legislation. There are some who claim that local government will be able to retain its franchise fee, PEG channels and PEG support, and that the bill even provides consumer protections. The bill does NOT protect local government revenue, it provides less than adequate capacity for PEG, eliminates PEG capital support and I-Nets, and turns what little consumer protection it permits over to the FCC for development and the states for enforcement.

Here's a little more about what this legislation will really do.

- All current cable franchising authority is eliminated.
- All current cable franchise agreements are preempted.
- Eliminates the 5% cable franchise fee and replaces it with a fee that must be both "reasonable" and limited to rights-of-way management costs and also not exceed 5%, and then allows industry to petition the FCC to reduce the fee still further -- this results in a huge subsidy to industry, paid for out of local government budgets.
- Substantially reduces the revenues that are includable in the definition of "Gross Revenues" so that, even if the 5% franchise fee were left untouched, local

governments' fee revenues would decline significantly due to the much smaller revenue base.

- Restricts PEG to a maximum of 4 channels, and specifies that the local government has the responsibility for determining, in cases where the number of channels must be reduced, which PEG users will no longer be provided access (*i.e.*, what categories of access users must bear the burden of the PEG channel capacity that the bill would eliminate).
- Eliminates all PEG support – capital and operating grants for PEG are eliminated, which will greatly threaten the continued viability of much of PEG programming.
- Moves all customer service issues to the FCC, to be enforced only by the State PUC.
- Eliminates any build-out requirements for any video service provider, thereby permitting providers to engage in any form of discriminatory redlining of neighborhoods they wish.
- Preempts any state or local law that is not generally applicable to all businesses, therefore threatening electric code and other safety obligations specifically pertaining to only certain classes of businesses (*e.g.*, utilities or rights-of-way users).
- Prohibits the imposition of any fee for issuance of rights-of-way construction permits.
- Requires local governments to act on construction permits in a timely manner as determined by the FCC or federal courts.
- Prohibits municipal provisioning of communications services without giving a right of first refusal to private industry and gives industry unfettered access to all municipal facilities and financing in the event private industry chooses to provide services.
- Eliminates local governments' ability to obtain I-Nets.
- Removes current federal law protections against preemption of local zoning decisions relating to cell towers.

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Do not delay – contact your members while they are home for the August recess!!!

Need help gearing up for that Congressional visit? NATOA will host two audio conference calls August 10 and August 11 specifically for local government employees and advisors – Effectively Communicating with Your Elected Leaders. Join local government advocate Mike Bracy and NATOA's Executive Director, Libby Beaty, for a one-hour session that will refresh your advocacy skills and review the critical issues to be addressed in your telecom outreach meetings.

Check the Conference/Events page of the NATOA Website for dates, times and additional information on this upcoming opportunity.