

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 947

H.P. 704

House of Representatives, February 25, 2003

An Act To Create the Cable Television Franchise Board

Reference to the Committee on Utilities and Energy suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GLYNN of South Portland.
Cosponsored by Senator BLAIS of Kennebec and
Representatives: GERZOFKY of Brunswick, SUSLOVIC of Portland, TWOMEY of
Biddeford.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §12004-G, sub-§5-A** is enacted to read:

6 5-A. Cable Expenses 10 MRSA
6 Cable Television Only c. 226
8 Television Franchise
8 Board

10 **Sec. 2. 30-A MRSA §3008, sub-§5**, as amended by PL 1989, c. 6;
12 c. 9, §2; c. 104, Pt. C, §§8 and 10, is further amended to read:

14 **5. Franchise agreements or contracts.** The State
16 specifically authorizes municipal officers pursuant to ordinances
18 but subject to the provisions of Title 10, chapter 226 and any
20 rules adopted by the Cable Television Franchise Board pursuant to
22 that chapter to contract on such terms and conditions and impose
24 such fees as are in the best interests of the municipality,
26 including the grant of exclusive or nonexclusive franchises for a
28 period not to exceed 15 years, for the placing and maintenance of
cable television systems and appurtenances, or parts thereof,
along public ways and including contracts with cable television
companies ~~which~~ that receive the services of television signal
transmission offered by any public utilities using public ways
for such transmission. No public utility may be required to
contract with the municipal officers under this subsection. Each
franchise must contain the following provisions:

30 A. The area or areas to be served;

32 B. A line extension policy;

34 C. A provision for renewal, the term of which may not
exceed 15 years;

36 D. Procedures for the investigation and resolution of
38 complaints by the cable television company; and

40 E. Any other terms and conditions that are in the best
interests of the municipality.

42 **Sec. 3. 10 MRSA c. 226** is enacted to read:

44 **CHAPTER 226**

46 **CABLE TELEVISION REGULATION**

48 **§1499-A. Cable Television Franchise Board**

2 1. Board established. The Cable Television Franchise
3 Board, referred to in this chapter as "the board," is established
4 to oversee and regulate the franchising of cable television
5 companies.

6 2. Membership; appointment. The board consists of the
7 following 7 members, appointed by the Governor and subject to
8 review by the joint standing committee of the Legislature having
9 jurisdiction over utilities and to confirmation by the Senate:

10 A. Two members of the public;

11 B. One member representing the education community;

12 C. One member representing a statewide community television
13 association;

14 D. One member representing a statewide municipal government
15 organization;

16 E. One member representing municipalities with populations
17 greater than 15,000; and

18 F. One member representing municipalities with populations
19 less than 15,000.

20 3. Terms. Members of the board serve 3-year terms, except
21 that, initially 3 members serve 3-year terms, 2 members serve
22 2-year terms and 2 members to serve 1-year terms. A member is
23 eligible for reappointment upon completion of any term on the
24 board. A member may continue to serve beyond the end of the
25 member's term until a successor is appointed and qualified. Any
26 vacancy must be filled by appointment for the unexpired portion
27 of the term.

28 4. Chair. The board annually shall select a chair from
29 among its members. The board shall meet at the call of the
30 chair, but no less than once every 3 months.

31 5. Compensation. Members of the board receive compensation
32 as provided in Title 5, section 12004-G, subsection 5-A.

33 6. Powers and duties. The board shall:

34 A. Establish by rule a uniform procedure for municipalities
35 to follow in granting franchises to cable television
36 companies;

2 B. Adopt and enforce rules establishing standards for the
3 granting, renewal and transfer of cable television
4 franchises;

6 C. Provide technical assistance and legal guidance to
7 municipalities regarding cable television franchising;

8 D. Review and approve all cable television applications for
9 a franchise or a renewal or transfer of a franchise; and

10 E. License cable television companies providing cable
11 television services through franchise agreements with
12 municipalities in this State.

14 7. Rules. Rules adopted by the board are routine technical
15 rules as defined in Title 5, chapter 375, subchapter 2-A.

16 8. Review; standards. Each cable television company
17 applying for a franchise or for a renewal or transfer of a
18 franchise after the effective date of this subsection shall
19 submit the application to the board for review and approval prior
20 to submission to a municipality. The board, in its review, shall
21 evaluate at least the following:

22 A. The financial soundness and stability of the applicant
23 and the soundness of the application;

24 B. The proposed service offerings to customers, including
25 the number of channels and the ability and capacity of the
26 cable television system to offer additional and varied
27 services in the future, especially the ability to provide
28 public, educational and government access channels and
29 capital funding to support the equipment requirements of
30 such channels;

31 C. The applicant's commitment to construction and in-service
32 schedules and appropriate bonding insurance;

33 D. The experience and ability of the applicant to run and
34 manage a cable television system;

35 E. The tariff of rates proposed to be charged to customers;

36 F. Proposed consumer policies, including policies on
37 addressing complaints and service problems;

38 G. The availability of the proposed service and the maximum
39 number of residences that will be served;

2 H. The technical qualifications of the applicant and the
quality of the engineering design and materials to be used
4 in the system;

6 I. The compatibility of the system with neighboring systems
that would allow for possible future interconnection; and

8 J. The proposed franchise fee and schedule of payments.

10 **9. Prohibition.** A cable television company may not:

12 A. After January 1, 2004, apply for or have a franchise
14 agreement with any municipality unless licensed by the
board; or

16 B. Apply for a franchise or for a renewal or transfer of a
18 franchise after the effective date of this paragraph unless
the company complies with the provisions of this section and
20 any rules adopted by the board.

22 A cable television company that violates this subsection commits
a civil violation for which a forfeiture of up to \$5,000 may be
24 adjudged.

26 **10. Staff.** The board shall appoint an executive director
and such other staff as the board determines necessary.
28 Employees of the board are subject to the Civil Service Law.

30 **11. Funding established.** Every cable television company
32 licensed by the board with intrastate operating revenues
exceeding \$1,000,000, as shown in the company's most recent
34 annual report or based on such other information as the board may
require, is subject to an assessment based on its intrastate
36 operating revenues to produce no more than \$200,000 in revenues
annually. The board shall determine the assessment annually
38 prior to May 1st by allocating the total assessment among
licensees in the same proportion as each licensee's total
40 intrastate operating revenues is to the total intrastate
operating revenues of all licensees in the previous calendar
42 year. All funds derived from assessments levied under this
subsection must be deposited with the Treasurer of State in a
44 separate account to be known as the Cable Television Franchise
Oversight Fund. The board shall submit its budget
46 recommendations as part of the unified current services budget
legislation in accordance with Title 5, sections 1663 to 1666.
48 The board may use the revenues provided in accordance with this
subsection to fund employee positions and to defray the costs
50 incurred by the commission pursuant to this section, including
administrative expenses, consulting fees and all other reasonable
costs incurred to administer this section. The money in the fund

2 may be invested as provided by law with the earnings credited to
3 the fund. Funds not expended at the end of a fiscal year do not
4 lapse but are carried forward for the purposes specified in this
5 subsection.

6

8 SUMMARY

10 This bill creates the Cable Television Franchise Oversight
11 Board to license cable television companies and to oversee and
12 regulate the cable television franchising process between
13 municipalities and cable television companies. The board has 7
14 members appointed by the Governor. The board has rulemaking and
15 regulatory authority, is authorized to hire staff and is
16 authorized to assess cable television companies to fund its
operations.