

# MAINE STATE LEGISLATURE

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Date: 1/8/24 Majority

L.D. 1967

(Filing No. H-7B)

**ENERGY, UTILITIES AND TECHNOLOGY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1264, L.D. 1967, "An Act to Support Municipal Franchise Agreements"

Amend the bill by striking out all of section 4 and inserting the following:

'Sec. 4. 30-A MRSA §3008, sub-§1-A, as enacted by PL 2007, c. 548, §1, is amended to read:

**1-A. Definitions.** ~~For purposes of~~ As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Cable system operator" has the same meaning as "cable operator," as that term is defined in 47 United States Code, Section 522(5), as in effect on January 1, 2008.

B. "Cable television service" has the same meaning as "cable service," as that term is defined in 47 United States Code, Section 522(6), as in effect on January 1, 2008; ~~and~~.

C. "Cable television system" has the same meaning as "cable system," as that term is defined in 47 United States Code, Section 522(7), as in effect on January 1, 2008.

D. "Affiliate" means a business entity effectively controlling or controlled by another person or associated with other persons under common ownership or control.

E. "Application" means an interactive computer or software program operating on a device that provides for the reception of transmitted or streamed video, audio or other digital content from a video service provider over the Internet or other electronic communications network in real time or near real time, allowing a user to receive such content on a device without downloading the entire content file.

F. "Facility support transmission equipment" means the equipment associated with the interconnection between public, educational and governmental facility equipment and the headend of a video service provider's system, beginning at the point at which a public, educational and governmental signal enters transmitting equipment, which must be owned, maintained and upgraded for signal quality or another reason by the video service provider. "Facility support transmission equipment" includes, but is not limited to, the equipment and facilities associated with signal transmission and carriage

**COMMITTEE AMENDMENT**

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1 methodologies employed to send, receive, manage, troubleshoot and maintain audio  
2 and video signals; all physical wires, fiber lines and related connectivity medium or  
3 device; and all equipment associated with the formatting of public, educational and  
4 governmental programming for transmission to a subscriber of the video service  
5 provider.

6 G. "Public, educational and governmental facility equipment" means, with respect to  
7 any public, educational and governmental access channel, the equipment used to  
8 capture and process programming in the field or in a public, educational or  
9 governmental studio, including all equipment used prior to the point at which that  
10 signal enters the private network of the video service provider.

11 H. "Public, educational and governmental programming" means content produced or  
12 provided by any person, group or public or private agency or organization that is used  
13 in conjunction with public, educational and governmental access channels and facility  
14 support transmission equipment.

15 I. "Public, educational and governmental signal" means any transmission of  
16 electromagnetic or optical energy that carries audio or video from one location to  
17 another for the purposes of providing public, educational and governmental  
18 programming.

19 J. "Video service provider" means any person that directly or through one or more  
20 affiliates sells in the State access to video, audio or computer-generated or computer-  
21 augmented entertainment and owns or operates facilities located in whole or in part in  
22 a municipality's public rights-of-way that are used to provide those services,  
23 irrespective of the technology or application used to deliver such services.

24 "Video service provider" includes, but is not limited to, a cable system operator and a  
25 common carrier that operates a cable television system. "Video service provider" does  
26 not include:

27 (1) A provider of commercial mobile service, as defined in 47 United States Code,  
28 Section 332(d)(1); or

29 (2) A provider of an Internet access service, as defined in 47 United States Code,  
30 Section 231(e)(4), with respect to the provision of the Internet service by the  
31 provider.'

32 Amend the bill by striking out all of section 7 and inserting the following:

33 '**Sec. 7. 30-A MRSA §3008, sub-§3, ¶F**, as enacted by PL 2019, c. 308, §1, is  
34 repealed.'

35 Amend the bill in section 8 in paragraph G in the 9th line (page 3, line 15 in L.D.) by  
36 inserting after the following: "law" the following: 'and'

37 Amend the bill in section 8 in paragraph G in the last 2 lines (page 3, lines 16 and 17  
38 in L.D.) by striking out the following: "This paragraph does not apply to facility support  
39 transmission equipment that is owned and maintained by the video service provider."

40 Amend the bill in section 11 in subsection 5 in the 12th line (page 4, line 9 in L.D.) by  
41 striking out the following: "Each" and inserting the following: 'Each Any new, renewed or  
42 amended'

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1 Amend the bill in section 11 in subsection 5 in paragraph B in the 2nd line (page 4, line  
2 12 in L.D.) by inserting after the following: "than" the following: 'an average of'

3 Amend the bill in section 11 in subsection 5 in paragraph B in the 4th line (page 4, line  
4 14 in L.D.) by striking out the following: "with no mandatory preconditions"

5 Amend the bill in section 11 in subsection 5 in paragraph B by inserting after paragraph  
6 B and before paragraph C the following blocked paragraph:

7 'A video service provider may not establish mandatory preconditions to be met by  
8 potential subscribers for the construction of a line extension on a municipal public  
9 right-of-way including, but not limited to, a requirement that a potential subscriber sign  
10 a contract for service in advance of the construction of the line extension. Nothing in  
11 this paragraph prohibits a video service provider from requiring payment of cost  
12 sharing from potential subscribers prior to construction of a line extension in  
13 accordance with a line extension policy required by this paragraph.'

14 Amend the bill in section 12 in subsection 5-A in the first line (page 4, line 30 in L.D.)  
15 by striking out the following: "Beginning January 1, 2024, any new or renewed" and  
16 inserting the following: 'Any new, renewed or amended'

17 Amend the bill in section 13 in subsection 7 in paragraph C in the first line (page 5,  
18 line 43 in L.D.) by inserting after the following: "reasonable" the following: 'public,  
19 educational and governmental'

20 Amend the bill in section 13 in subsection 7 in paragraph C in the last line (page 5, line  
21 44 in L.D.) by striking out the following: "support" and inserting the following: 'support'

22 Amend the bill by striking out all of section 14 and inserting the following:

23 'Sec. 14. 30-A MRS §3008, sub-§8 is enacted to read:

24 8. Authorized judicial actions; statute of limitations. A violation of this section  
25 constitutes a violation of the Maine Unfair Trade Practices Act.

26 A municipality that has suffered an adverse impact due to the action of an entity not in  
27 compliance with the requirements of this section may bring an action against that entity to  
28 recover any unpaid franchise fees or to enjoin the operation of that entity.

29 Notwithstanding any provision of law to the contrary, an action brought under this section  
30 must be commenced within 7 years of the date that the cause of action arose.'

31 Amend the bill in section 15 in §3009-B in the first indented paragraph in the last line  
32 (page 6, line 25 in L.D.) by striking out the following: "H" and inserting the following: 'J'

33 Amend the bill in section 15 in §3009-B in subsection 2 in the 2nd line (page 6, line 34  
34 in L.D.) by striking out the following: "mediator" and inserting the following: 'arbitrator'

35 Amend the bill in section 20 in subsection 5 in the first blocked paragraph in the 2nd  
36 line (page 8, line 10 in L.D.) by striking out the following: "D" and inserting the following:  
37 'F'

38 Amend the bill in section 20 in subsection 5 in the first blocked paragraph in the last  
39 line (page 8, line 12 in L.D.) by striking out the following: "E" and inserting the following:  
40 'G'

41 Amend the bill by striking out all of section 21 and inserting the following:

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1 'Sec. 21. 30-A MRSA §3010, sub-§5-A, as enacted by PL 2019, c. 245, §6, is  
2 amended to read:

3 **5-A. Public, educational and governmental access channels.** A ~~cable-system~~  
4 ~~operator video service provider~~ shall carry public, educational and governmental access  
5 channels on the ~~cable-system operator's provider's~~ basic cable or video service offerings or  
6 tiers ~~accessed through a cable television receiver or application~~. A ~~cable-system operator~~  
7 ~~video service provider~~ may not separate public, educational and governmental access  
8 channels numerically from other local broadcast channels carried on the ~~cable-system~~  
9 ~~operator's provider's~~ basic cable or video service offerings ~~or~~ tiers ~~or applications~~ and, in  
10 the event of a franchise license transfer, shall use the same channel numbers for the public,  
11 educational and governmental access channels as used for those channels by the incumbent  
12 ~~cable-system operator video service provider~~, unless prohibited by federal law. After the  
13 initial designation of public, educational and governmental access channel numbers, a ~~cable~~  
14 ~~system operator video service provider~~ may not change the channel numbers without the  
15 agreement of the originator, unless the change is required by federal law.

16 A ~~cable-system operator video service provider~~ shall restore a public, educational or  
17 governmental access channel that has been moved without the consent of the originator  
18 within the 24 months preceding the effective date of this subsection to its original location  
19 and channel number within 60 days after the effective date of this subsection.

20 As used in this subsection, "application" has the same meaning as in section 3008,  
21 subsection 1-A, paragraph E.'

22 Amend the bill by striking out all of section 22 and inserting the following:

23 '**Sec. 22. 30-A MRSA §3010, sub-§5-B, as enacted by PL 2019, c. 245, §6, is**  
24 **repealed.'**

25 Amend the bill in section 24 in subsection 5-D in the first line (page 9, line 16 in L.D.)  
26 by striking out the following: "Beginning January 1, 2024, a" and inserting the following:  
27 'A'

28 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
29 number to read consecutively.

30 **SUMMARY**

- 31 This amendment makes the following changes to the bill.
- 32 1. It makes several changes to the definition of "video service provider" and adds a  
33 definition of "affiliate."
  - 34 2. It repeals the law requiring a cable system operator to offer subscribers the option of  
35 purchasing access to cable channels or programs on cable channels individually.
  - 36 3. It amends the law requiring provisions in a franchise to specify that a line extension  
37 policy's minimum density requirement must be of no more than an average of 15 residences  
38 per linear strand mile of aerial cable.
  - 39 4. It clarifies the prohibition in the bill on a video service provider's establishing  
40 mandatory preconditions to be met by potential subscribers for the construction of a line  
41 extension on a municipal public right-of-way.

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COMMITTEE AMENDMENT "A" to H.P. 1264, L.D. 1967

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5. It clarifies that a violation of the Maine Revised Statutes, Title 30-A, section 3008 is a violation of the Maine Unfair Trade Practices Act.

6. It makes language changes for consistency within the bill and removes specific dates within the bill to make the requirements of the Act applicable when the bill becomes law.

**FISCAL NOTE REQUIRED**

(See attached)

**COMMITTEE AMENDMENT**



Approved: 12/21/23 *MAC*

# 131st MAINE LEGISLATURE

LD 1967

LR 713(02)

An Act to Support Municipal Franchise Agreements

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-728)

Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

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## Fiscal Note

Minor cost increase - General Fund

Minor cost increase - Other Special Revenue Funds

### Fiscal Detail and Notes

Any additional costs to the Department of Administrative and Financial Services, Office of Information Technology and to the Public Utilities Commission to implement the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.