

SENATE BILL NO. 429—COMMITTEE ON COMMERCE AND LABOR

MARCH 24, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to community antenna television systems and video programming services. (BDR 58-1072)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to communication services; requiring certain governmental entities that sell the services of a community antenna television system to the general public to comply with certain conditions and limitations relating to the provision of those services; requiring certain governmental entities to demonstrate that they are in compliance with such conditions and limitations under certain circumstances; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 711 of NRS is hereby amended by adding
- 2 thereto a new section to read as follows:
- 3 ***1. If the governing body of a county or city is authorized***
- 4 ***pursuant to NRS 711.175 to sell the services of a community***
- 5 ***antenna television system to the general public, the governing***
- 6 ***body, and any entity or agency that is directly or indirectly***
- 7 ***controlled by the county or city, shall not construct, own, manage***
- 8 ***or operate a community antenna television system in any area***
- 9 ***outside its territorial boundaries unless it:***
- 10 ***(a) Obtains a franchise from the appropriate governing body***
- 11 ***pursuant to NRS 711.190 for that portion of the community***



1 antenna television system which it constructs, owns, manages or
2 operates outside its territorial boundaries; and

3 (b) Complies with the same federal, state and local
4 requirements that apply to a privately held community antenna
5 television company with regard to that portion of the community
6 antenna television system which it constructs, owns, manages or
7 operates outside its territorial boundaries.

8 2. On and after October 1, 2003, if the governing body of a
9 county or city is authorized pursuant to NRS 711.175 to sell the
10 services of a community antenna television system to the general
11 public, the governing body, and any entity or agency that is
12 directly or indirectly controlled by the county or city, shall not
13 construct, own, manage or operate a community antenna
14 television system in any area within its territorial boundaries
15 which is governed by another governing body and which is served
16 by one or more privately held community antenna television
17 companies unless it:

18 (a) Obtains a franchise from the other governing body
19 pursuant to NRS 711.190 or enters into an interlocal agreement
20 with the other governing body;

21 (b) Is required by the franchise or interlocal agreement to
22 comply with the same requirements that apply to the privately held
23 community antenna television companies; and

24 (c) Is prohibited by the franchise or interlocal agreement from
25 providing the services of the community antenna television system,
26 free of charge, to any governmental officer or employee for his
27 personal or household use.

28 **Sec. 2.** NRS 711.175 is hereby amended to read as follows:

29 711.175 1. Except as otherwise provided in subsection 2 and
30 NRS 318.1192, 318.1193 and 318.1194:

31 ~~1-1~~ (a) The governing body of a county whose population is
32 50,000 or more , and any entity or agency that is directly or
33 indirectly controlled by such a county, shall not sell the services of
34 a community antenna television system to the general public.

35 ~~1-2~~ (b) The governing body of a city whose population is
36 25,000 or more , and any entity or agency that is directly or
37 indirectly controlled by such a city, shall not sell the services of a
38 community antenna television system to the general public.

39 2. If the governing body of a county or city, or any entity or
40 agency that is directly or indirectly controlled by such a county or
41 city, was selling the services of a community antenna television
42 system to the general public on April 1, 2003, it may continue to
43 sell the services of a community antenna television system to the
44 general public after that date, regardless of the population of the
45 county or city.



1 **Sec. 3.** NRS 711.190 is hereby amended to read as follows:
2 711.190 1. Except as otherwise provided in NRS 318.1194:
3 (a) A city ~~[council]~~ may grant a franchise to a community
4 antenna television company for the construction, maintenance and
5 operation of a community antenna television system which requires
6 the use of city property or that portion of the city dedicated to public
7 use for the maintenance of cables or wires underground, on the
8 surface or on poles for the transmission of a television picture.
9 (b) A county may grant a franchise to a community antenna
10 television company for the construction, maintenance and operation
11 of a community antenna television system which requires the use of
12 the property of the county or any town in the county or that portion
13 of the county or town dedicated to public use for the maintenance of
14 cables or wires underground, on the surface or on poles for the
15 transmission of a television picture.
16 2. If a local government grants a franchise to two or more
17 community antenna television companies to construct, maintain or
18 operate a community antenna television system in the same area, the
19 local government shall impose the same terms and conditions on
20 each franchise ~~[.]~~ *and shall enforce those terms and conditions in a*
21 *nondiscriminatory manner.*
22 3. A community antenna television company that is granted a
23 franchise pursuant to this ~~[section]~~ *chapter* may provide
24 telecommunications service or interactive computer service without
25 obtaining a separate franchise from the local government.
26 4. A local government that grants a franchise pursuant to this
27 ~~[section]~~ *chapter* shall not require the community antenna television
28 company to place its facilities in ducts or conduits or on poles
29 owned or leased by the local government.
30 5. If a county whose population is 400,000 or more, or an
31 incorporated city located in whole or in part within such a county,
32 grants a franchise pursuant to this ~~[section.]~~ *chapter*, the term of the
33 franchise must be at least 10 years. If a franchisee notifies such a
34 county or city on or before the end of the eighth year of a franchise
35 that it wishes to extend the franchise, the county or city shall, on or
36 before the end of the ninth year of the franchise, grant an extension
37 of 5 years on the same terms and conditions, unless the franchisee
38 has not substantially complied with the terms and conditions of the
39 franchise agreement.
40 6. As used in this section:
41 (a) "Interactive computer service" has the meaning ascribed to it
42 in 47 U.S.C. § 230(e)(2), as that section existed on July 16, 1997.
43 (b) "Telecommunications service" has the meaning ascribed to it
44 in 47 U.S.C. § 153(46), as that section existed on July 16, 1997.



1 **Sec. 4.** Chapter 244 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *If the governing body of a county is authorized pursuant to*
4 *NRS 711.175 to sell video programming services to the general*
5 *public over a community antenna television system, the governing*
6 *body, and any entity or agency that is directly or indirectly*
7 *controlled by the county, shall not do any of the following:*

8 (a) *Sell such video programming services at a price that is less*
9 *than the actual cost of the video programming services or sell a*
10 *bundle of services containing such video programming services at*
11 *a price that is less than the actual cost of the bundle of services.*

12 (b) *Use any money from the county general fund for the*
13 *provision of such video programming services over its community*
14 *antenna television system.*

15 (c) *Use its rights-of-way, its property or any special power it*
16 *may possess by virtue of its status as a government or a*
17 *government-owned utility to:*

18 (1) *Create a preference or advantage for its community*
19 *antenna television system; or*

20 (2) *Impose any discriminatory burden on any privately held*
21 *community antenna television company.*

22 2. *The provisions of this section must be enforced in the*
23 *manner set forth in paragraph (c) of subsection 4 of NRS 354.624*
24 *and paragraph (c) of subsection 5 of NRS 354.624.*

25 3. *The provisions of this section do not create an exclusive*
26 *remedy and do not abrogate or limit any other action or remedy*
27 *that is available to the governing body or a privately held*
28 *community antenna television company pursuant to any other*
29 *statute or the common law.*

30 4. *As used in this section:*

31 (a) *“Community antenna television company” has the*
32 *meaning ascribed to it in NRS 711.030.*

33 (b) *“Community antenna television system” has the meaning*
34 *ascribed to it in NRS 711.040.*

35 (c) *“Video programming services” means services which are*
36 *provided over a community antenna television system and which*
37 *contain:*

38 (1) *Programming provided by a television broadcast*
39 *station; or*

40 (2) *Programming that is generally considered comparable*
41 *to programming provided by a television broadcast station.*

42 **Sec. 5.** NRS 277.045 is hereby amended to read as follows:

43 277.045 1. Except as limited by NRS 280.105 ~~§~~ and
44 **711.175**, any two or more political subdivisions of this state,
45 including , without limitation , counties, incorporated cities and



1 towns, unincorporated towns, school districts and special districts,
2 may enter into a cooperative agreement for the performance of any
3 governmental function. Such an agreement may include the
4 furnishing or exchange of personnel, equipment, property or
5 facilities of any kind, or the payment of money.

6 2. Every such agreement must be by formal resolution or
7 ordinance of the governing body of each political subdivision
8 included, and must be spread at large upon the minutes, or attached
9 in full thereto as an exhibit, of each governing body.

10 3. Each participating political subdivision shall provide in its
11 annual budget for any expense to be incurred under any such
12 agreement, the money for which is not made available through
13 grant, gift or other source.

14 **Sec. 6.** NRS 277.110 is hereby amended to read as follows:

15 277.110 Except as limited by NRS 280.105 ~~and~~ **and 711.175:**

16 1. Any power, privilege or authority exercised or capable of
17 exercise by a public agency of this state, including, but not limited
18 to, law enforcement, may be exercised jointly with any other public
19 agency of this state, and jointly with any public agency of any other
20 state or of the United States to the extent that the laws of such other
21 state or of the United States permit such joint exercise. Any agency
22 of this state when acting jointly with any other public agency may
23 exercise all the powers, privileges and authority conferred by NRS
24 277.080 to 277.180, inclusive, upon a public agency.

25 2. Any two or more public agencies may enter into agreements
26 with one another for joint or cooperative action pursuant to the
27 provisions of NRS 277.080 to 277.170, inclusive. Those agreements
28 become effective only upon ratification by appropriate ordinance,
29 resolution or otherwise pursuant to law on the part of the governing
30 bodies of the participating public agencies. If it is reasonably
31 foreseeable that a participating public agency will be required to
32 expend \$2,000 or more to carry out such an agreement, the
33 agreement must be in writing.

34 **Sec. 7.** NRS 354.624 is hereby amended to read as follows:

35 354.624 1. Each local government shall provide for an annual
36 audit of all of its financial statements. A local government may
37 provide for more frequent audits as it deems necessary. Except as
38 otherwise provided in subsection 2, each annual audit must be
39 concluded and the report of the audit submitted to the governing
40 body as provided in subsection 6 not later than 5 months after the
41 close of the fiscal year for which the audit is conducted. An
42 extension of this time may be granted by the Department of
43 Taxation to any local government that submits an application for an
44 extension to the Department. If the local government fails to provide
45 for an audit in accordance with the provisions of this section, the



1 Department of Taxation shall cause the audit to be made at the
2 expense of the local government. All audits must be conducted by a
3 certified public accountant or by a partnership or professional
4 corporation that is registered pursuant to chapter 628 of NRS.

5 2. The annual audit of a school district must:

6 (a) Be concluded and the report submitted to the board of
7 trustees as provided in subsection 6 not later than 4 months after the
8 close of the fiscal year for which the audit is conducted.

9 (b) If the school district has more than 150,000 pupils enrolled,
10 include an audit of the expenditure by the school district of public
11 money used:

12 (1) To design, construct or purchase new buildings for
13 schools or related facilities;

14 (2) To enlarge, remodel or renovate existing buildings for
15 schools or related facilities; and

16 (3) To acquire sites for building schools or related facilities,
17 or other real property for purposes related to schools.

18 3. The governing body may, without requiring competitive
19 bids, designate the auditor or firm annually. The auditor or firm
20 must be designated and notification of the auditor or firm designated
21 must be sent to the Department of Taxation not later than 3 months
22 before the close of the fiscal year for which the audit is to be made.

23 4. Each annual audit must cover the business of the local
24 government during the full fiscal year. It must be a financial audit
25 conducted in accordance with generally accepted auditing standards
26 in the United States, including ~~and~~ findings on compliance with
27 statutes and regulations and an expression of opinion on the
28 financial statements. The Department of Taxation shall prescribe the
29 form of the financial statements, and the chart of accounts must be
30 as nearly as possible the same as the chart that is used in the
31 preparation and publication of the annual budget. The report of the
32 audit must include:

33 (a) A schedule of all fees imposed by the local government
34 which were subject to the provisions of NRS 354.5989; ~~and~~

35 (b) A comparison of the operations of the local government with
36 the approved budget, including a statement from the auditor that
37 indicates whether the governing body has taken action on the audit
38 report for the prior year ~~and~~; *and*

39 *(c) If the local government is subject to the provisions of*
40 *section 4 of this act, a report showing that the local government is*
41 *in compliance with the provisions of paragraphs (a) and (b) of*
42 *subsection 1 of section 4 of this act.*

43 5. Each local government shall provide to its auditor:

44 (a) A statement indicating whether each of the following funds
45 established by the local government is being used expressly for the



1 purposes for which it was created, in the form required by
2 NRS 354.6241:

- 3 (1) An enterprise fund.
- 4 (2) An internal service fund.
- 5 (3) A fiduciary fund.
- 6 (4) A self-insurance fund.
- 7 (5) A fund whose balance is required by law to be:
 - 8 (I) Used only for a specific purpose other than the
 - 9 payment of compensation to a bargaining unit, as defined in NRS
 - 10 288.028; or
 - 11 (II) Carried forward to the succeeding fiscal year in any
 - 12 designated amount.

13 (b) A list and description of any property conveyed to a
14 nonprofit organization pursuant to NRS 244.287 or 268.058.

15 *(c) If the local government is subject to the provisions of*
16 *section 4 of this act, a declaration indicating that the local*
17 *government is in compliance with the provisions of paragraph (c)*
18 *of subsection 1 of section 4 of this act.*

19 6. The opinion and findings of the auditor contained in the
20 report of the audit must be presented at a meeting of the governing
21 body held not more than 30 days after the report is submitted to it.
22 Immediately thereafter, the entire report, together with the
23 management letter required by generally accepted auditing standards
24 in the United States or by regulations adopted pursuant to NRS
25 354.594, must be filed as a public record with:

- 26 (a) The clerk or secretary of the governing body;
- 27 (b) The county clerk;
- 28 (c) The Department of Taxation; and
- 29 (d) In the case of a school district, the Department of Education.

30 7. If an auditor finds evidence of fraud or dishonesty in the
31 financial statements of a local government, the auditor shall report
32 such evidence to the appropriate level of management in the local
33 government.

34 8. The governing body shall act upon the recommendations of
35 the report of the audit within 3 months after receipt of the report,
36 unless prompter action is required concerning violations of law or
37 regulation, by setting forth in its minutes its intention to adopt the
38 recommendations, to adopt them with modifications or to reject
39 them for reasons shown in the minutes.

40 **Sec. 8.** This act becomes effective upon passage and approval.

