

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2008-148
SENATE BILL 1716**

AN ACT TO CLARIFY THE DISTRIBUTION OF SUPPLEMENTAL PEG SUPPORT FUNDING AND TO CLARIFY THAT THE SERVICE AREA OF A CITY INCLUDES ANY AREA SUBSEQUENTLY ANNEXED BY THAT CITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.44I(b) reads as rewritten:

"(b) Supplemental PEG Channel Support. – G.S. 105-164.44J sets out the requirements for receipt by a county or city of supplemental PEG channel support funds distributed under this subsection. The Secretary must include the applicable amount of supplemental PEG channel support in each quarterly distribution to a county or city. The amount to include is one-fourth of twenty-five thousand dollars (\$25,000) for each qualifying PEG channel operated—certified by the county or city—city under G.S. 105-164.44J. A county or city may not receive PEG channel support under this subsection for more than three qualifying PEG channels.

The amount of money distributed under this subsection may not exceed two million dollars (\$2,000,000) in a fiscal year—year, plus the amount of any funds returned to the Secretary in the prior fiscal year under G.S. 105-164.44J(d). If the amount to be distributed for qualifying PEG channels in a fiscal year would otherwise exceed this maximum amount, the Secretary must proportionately reduce the applicable amount distributable for each PEG channel. If the amount to be distributed for qualifying PEG channels in a fiscal year is less than two million dollars (\$2,000,000), this maximum amount, the Secretary must credit the excess amount to the PEG Channel Fund established in G.S. 66-359. For purposes of this subsection, the term 'qualifying PEG channel' has the same meaning as in G.S. 105-164.44J.

~~A county or city must certify to the Secretary by July 15 of each year the number of qualifying PEG channels it operates. A qualifying PEG channel is one that meets the programming requirements under G.S. 66-357(d). A county or city may not receive PEG channel support under this subsection for more than three qualifying PEG channels.~~

~~The amount included under this subsection in a distribution to a county or city is intended to supplement the PEG channel support available in the amount distributed under this section. The money distributed to a county or city under this subsection must be used by it for the operation and support of PEG channels. For purposes of this subsection, the term "PEG channel" has the same meaning as in G.S. 66-350."~~

SECTION 2. G.S. 105-164.44I(e) reads as rewritten:

"(e) Use of Proceeds. – A county or city that imposed subscriber fees during the first six months of the 2006-2007 fiscal year must use a portion of the funds distributed to it each fiscal year under subsections (c) and (d) of this section for the operation and support of PEG channels. The amount of funds that must be used for PEG channel operation and support in fiscal year 2006-2007 is two times the amount of subscriber fee revenue the county or city certified to the Secretary that it imposed during the first six months of the 2006-2007 fiscal year. The amount of funds that must be used for PEG channel operation and support in subsequent fiscal years is the same proportionate amount of the funds that were distributed under subsections (c) and (d) of this section and used for this purpose in fiscal year 2006-2007. A

A county or city that used part of its franchise tax revenue in fiscal year 2005-2006 for the operation and support of PEG channels or a publicly owned and operated television station must use the funds distributed to it under subsections (c) and (d) of this section to continue the same level of support for the PEG channels and public stations. The remainder of the distribution may be used for any public purpose."

SECTION 3. Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.44J. Supplemental PEG channel support.

- (a) Definitions. – The following definitions apply in this section:
- (1) Existing agreement. – Defined in G.S. 66-350.
 - (2) PEG channel. – Defined in G.S. 66-350.
 - (3) PEG channel operator. – An entity that does one or more of the following:
 - a. Produces programming for delivery on a PEG channel.
 - b. Provides facilities for the production of programming or playback of programming for delivery on a PEG channel.
 - (4) Qualifying PEG channel. – A PEG channel that operates for at least 90 days during a fiscal year and that meets all of the following programming requirements:
 - a. It delivers at least eight hours of scheduled programming a day.
 - b. It delivers at least six hours and 45 minutes of scheduled, non-character-generated programming a day.
 - c. Its programming content does not repeat more than fifteen percent (15%) of the programming content on any other PEG channel provided to the same county or city.
 - (5) Supplemental PEG channel support funds. – The amount distributed to a county or city under G.S. 105-164.44I(b).
- (b) Certification. – A county or city must certify to the Secretary by July 15 of each year all of the qualifying PEG channels provided for its use during the preceding fiscal year by a cable service provider under either G.S. 66-357 or an existing agreement. The certification must include all of the following:
- (1) An identification of each channel as a public, an education, or a government channel.
 - (2) The name and signature of the PEG channel operator for each channel. If a qualifying PEG channel has more than one PEG channel operator, the county or city must include the name of each operator of the PEG channel. A PEG channel operator may be included on the certification of only one county or city for each type of PEG channel that it operates.
 - (3) Any other information required by the Secretary.
- (c) Use of Funds. – A county or city must use the supplemental PEG channel support funds distributed to it for the operation and support of each of the qualifying PEG channels it certifies by allocating the amount it receives equally among each of the qualifying PEG channels. A county or city must distribute the supplemental PEG channel support funds to the PEG channel operator of the qualifying PEG channel within 30 days of its receipt of the supplemental PEG channel support funds from the Department, or as specified in an interlocal agreement. If a qualifying PEG channel has more than one PEG channel operator, the county or city must distribute the amount allocated for that PEG channel equally to each PEG channel operator, or as specified in an interlocal agreement.
- (d) Errors in Certification. – If a county or city determines that it certified a PEG channel in error, the county or city must submit a revised certification to the Secretary, and the county or city must return all supplemental PEG channel support funds distributed to it as a result of the error. The Secretary must add the funds returned to the

total amount of supplemental PEG channel support funds to be allocated in the following fiscal year."

SECTION 4. Notwithstanding G.S. 105-164.44J(b), as enacted by this act, certifications of qualifying PEG channels for use in distributing fiscal year 2008-2009 supplemental PEG channel support funds may be submitted to the Secretary on or before September 15, 2008. The distribution of supplemental PEG channel support funds made within 75 days after June 30, 2008, must be based on the qualifying PEG channel certification in effect for the prior distribution.

SECTION 5. G.S. 66-352(a) reads as rewritten:

"(a) Notice of Franchise. – A person who intends to provide cable service over a cable system in an area must file a notice of franchise with the Secretary before providing the service. A person who files a notice of franchise must pay a fee in the amount set in G.S. 57C-1-22 for filing articles of organization.

A notice of franchise is effective when it is filed with the Secretary. The notice of franchise must include all of the following:

- (1) The applicant's name, principal place of business, mailing address, physical address, telephone number, and e-mail address.
- (2) A description and map of the area to be served. If the description includes the area within the boundaries of a city, the area to be served is considered to include any area that is subsequently annexed to the city unless the notice limits the area to be served to the boundaries of the city on the effective date of the notice.
- (3) A list of each county and city in which the described service area is located, in whole or in part.
- (4) A schedule indicating when service is expected to be offered in the service area."

SECTION 6. This act is effective when it becomes law. Section 5 of this act applies to notices of franchise that are in effect on the effective date of this act or become effective on or after that date.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 8:24 p.m. this 2nd day of August, 2008