



HOUSE BILL 396: Municipal Broadband Service Area.

2017-2018 General Assembly

Committee:		Date:	September 13, 2017
Introduced by:		Prepared by:	Jennifer McGinnis Staff Attorney
Analysis of:	S.L. 2017-180		

OVERVIEW: *S.L. 2017-180 modifies an exemption for the City of Wilson (City) from requirements applicable to cities that operate a communications service that is offered to the public for a fee included in Article 16A of Chapter 160A of the General Statutes.*

The act became effective July 25, 2017.

PRIOR LAW/BACKGROUND: Article 16A of Chapter 160A of the General Statutes establishes requirements for cities providing communications services (cable, video programming, telecommunications, broadband, or high speed internet access) to the public for a fee. A city providing communications services must:

- Comply with all State, local, and federal laws and regulations to which a private company providing the same communications service is subject.
- Establish separate enterprise funds for the communications service and conduct annual audits of the communications service.
- Limit the provision of service to the jurisdictional boundaries of the city.
- Provide nondiscriminatory access of the city's rights-of-way, poles, or conduits to other service providers.
- Remit to its General Fund an amount equal to all the taxes and fees a private provider would pay if the private provider supplied the service.

City-owned communications service providers are prohibited from engaging in any of the following:

- Using the city's authority to require individuals or developments to subscribe to the communications service.
- Pricing the service below the cost of providing the service. The cost of providing the service must include the cost of capital components that would be equal to the cost of capital components a private provider would incur and an amount equal to all taxes a private provider would pay.
- Providing advertisements of the city-owned communications service on public, educational, and government access (PEG) channels of competing providers if the PEG channel is required to be carried on the system of another service provider. The use of funds not allocated to the communications service for advertisement is also prohibited.
- Subsidizing the provision of the communications service with other revenue.

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Cities and joint agencies are prohibited from incurring debt, including installment purchase contracts and certificates of participation, for a communications system unless a special election is held, posing the question whether or not the city may offer the communications service.

Cities that choose to repair, improve, sell, or discontinue a city-owned communications service are not required to hold a referendum prior to action.

Cities that offered communications service as of January 1, 2011, are exempt from all of the provisions in the act provided the city limits the provision of service to the following:

- Persons within the corporate limits of the city providing the service. For the purposes of this section, the corporate limits include areas in the corporate limits as of April 1, 2011, and any later annexed areas.
- Existing customers of the service as of April 1, 2011, provided contracts for service outside the service area provided in the act are subject to public bidding upon expiration.
- **Persons within the service areas provided in the act. A city that is subject to a service area boundary will have 30 days from discovery or notice of providing service outside of the boundary to cease providing service outside the boundary without losing the exemption. G.S. 160A-340.2(c)(3) specifically exempts:**

(3) The following service areas:

...

c. For the city of Wilson, the service area is the county limits of Wilson County, including the incorporated areas within the County.

...

BILL ANALYSIS: This act modifies the exemption for the city of Wilson from requirements applicable to cities that operate a communications service that is offered to the public for a fee included in Article 16A of Chapter 160A of the General Statutes, to authorize the city to continue the provision of communication services to persons and businesses in the temporary extension areas under the condition that the provision of communication services in such areas is terminated by a date which is 30 days after the date retail service is first available in the area from a competitive provider of communications service that will provide Fiber to the Premises (FTTP) service. Temporary area extension areas under the bill are: (i) the municipality of Pinetops; and (ii) any service connection located within 800 feet of the center line of Christian Road (State Road No. 1942) between its intersection with Bloomery Road (State Road No. 1996) and West Hornes Church Road (State Road No. 1941).

EFFECTIVE DATE: The act became effective July 25, 2017.

Erika Churchill, staff attorney, substantially contributed to this summary.