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Legislative Document

No. 1967

H.P. 1264

House of Representatives, May 18, 2023

An Act to Support Municipal Franchise Agreements

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SACHS of Freeport.
Cosponsored by Senator LAWRENCE of York and
Representatives: BLIER of Buxton, CARLOW of Buxton, GEIGER of Rockland, HEPLER of
Woolwich, KESSLER of South Portland, Senators: GROHOSKI of Hancock, HICKMAN of
Kennebec, RAFFERTY of York.

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

2 **Sec. 1. 30-A MRSA §3008, sub-§1, ¶C**, as amended by PL 2007, c. 548, §1, is
3 further amended to read:

4 C. To provide adequate statutory authority to municipalities to make franchising and
5 regulatory decisions to implement this policy and to avoid the costs and uncertainty of
6 lawsuits challenging that authority; ~~and~~

7 **Sec. 2. 30-A MRSA §3008, sub-§1, ¶D**, as enacted by PL 2007, c. 548, §1, is
8 amended to read:

9 D. To ensure that all ~~cable television operators~~ video service providers receive the
10 same treatment with respect to franchising and regulatory processes and to encourage
11 new providers to provide competitive pressure on the pricing of such services; ~~and~~

12 **Sec. 3. 30-A MRSA §3008, sub-§1, ¶E** is enacted to read:

13 E. Consistent with the applicable requirements of this section, to prohibit a video
14 service provider from offering or providing its services within a municipality unless it
15 has entered into a franchise agreement or contract with the municipality pursuant to
16 this section.

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

19 **1-A. Definitions.** ~~For purposes of~~ As used in this section, unless the context otherwise
20 indicates, the following terms have the following meanings:

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

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

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

27 D. "Facility support transmission equipment" means the equipment associated with
28 the interconnection between public, educational and governmental facility equipment
29 and the headend of a video service provider's system, beginning at the point at which a
30 public, educational and governmental signal enters transmitting equipment, which
31 must be owned, maintained and upgraded for signal quality or another reason by the
32 video service provider. "Facility support transmission equipment" includes, but is not
33 limited to, the equipment and facilities associated with signal transmission and carriage
34 methodologies employed to send, receive, manage, troubleshoot and maintain audio
35 and video signals; all physical wires, fiber lines and related connectivity medium or
36 device; and all equipment associated with the formatting of public, educational and
37 governmental programming for transmission to a subscriber of the video service
38 provider.

39 E. "Public, educational and governmental facility equipment" means, with respect to
40 any public, educational and governmental access channel, the equipment used to
41 capture and process programming in the field or in a public, educational or

1 governmental studio, including all equipment used prior to the point at which that
2 signal enters the private network of the video service provider.

3 F. "Public, educational and governmental programming" means content produced or
4 provided by any person, group or public or private agency or organization that is used
5 in conjunction with public, educational and governmental access channels and facility
6 support transmission equipment.

7 G. "Public, educational and governmental signal" means any transmission of
8 electromagnetic or optical energy that carries audio or video from one location to
9 another for the purposes of providing public, educational and governmental
10 programming.

11 H. "Video service provider" means any person that sells in the State access to video,
12 audio or computer-generated or computer-augmented entertainment and directly or
13 through one or more affiliates owns or operates facilities located in whole or in part in
14 public rights-of-way that are used to provide those services, irrespective of the
15 technology used to deliver such services.

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

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

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

24 **Sec. 5. 30-A MRSA §3008, sub-§3, ¶B**, as amended by PL 2007, c. 548, §1, is
25 further amended to read:

26 B. Notwithstanding any provision in a franchise, a ~~cable system operator~~ video service
27 provider may not abandon service or a portion of that service without having given 6
28 months' prior written notice to the franchising municipality, if any, and to the
29 municipalities affected by that abandonment. When abandonment of any service is
30 prohibited by a municipal franchise, a ~~cable system operator~~ video service provider
31 may not abandon that service without written consent of the municipal officers. Any
32 ~~cable system operator~~ video service provider that violates this paragraph commits a
33 civil violation for which a fine of \$50 a day for each day that the violation continues
34 may be adjudged.

35 **Sec. 6. 30-A MRSA §3008, sub-§3, ¶C**, as amended by PL 2007, c. 548, §1, is
36 further amended to read:

37 C. Neither the ~~cable system operator~~ video service provider whose ~~facilities are~~ facility
38 support transmission equipment is used to transmit a program produced by a person
39 other than that ~~operator~~ provider, under Federal Communications Commission
40 regulations or municipal ordinance, nor the officers, directors or employees of ~~any such~~
41 ~~cable system operator~~ that provider are liable for damages arising from any obscene or
42 defamatory statements or actions or invasion of privacy occurring during any program
43 when that ~~cable system operator~~ provider does not originate or produce the program.

1 **Sec. 7. 30-A MRSA §3008, sub-§3, ¶F**, as enacted by PL 2019, c. 308, §1, is
2 amended to read:

3 F. Notwithstanding any provision in a franchise, a ~~cable system operator~~ video service
4 provider shall offer subscribers the option of purchasing access to cable channels, or
5 programs on cable channels, individually.

6 **Sec. 8. 30-A MRSA §3008, sub-§3, ¶G** is enacted to read:

7 G. Notwithstanding any provision in a franchise, a video service provider is
8 responsible for all costs associated with public, educational and governmental facility
9 equipment shown by the franchising municipality to be reasonably necessary in light
10 of community needs and interests for the capture, processing and delivery to the video
11 service provider of public, educational and governmental access channels within the
12 franchising municipality, including, but not limited to, technology upgrade costs for
13 signal quality improvement or for other reasons. A video service provider may not
14 offset any such costs through the payment of required fees under subsection 5-A, but
15 may recover such costs from subscribers to the extent permitted by applicable law as
16 negotiated with the municipality. This paragraph does not apply to facility support
17 transmission equipment that is owned and maintained by the video service provider.

18 **Sec. 9. 30-A MRSA §3008, sub-§3, ¶H** is enacted to read:

19 H. New facility support transmission equipment installed must be at the current
20 resolution technology afforded to broadcasting stations.

21 **Sec. 10. 30-A MRSA §3008, sub-§4**, as amended by PL 2007, c. 548, §1, is further
22 amended to read:

23 **4. Franchise procedures.** Pursuant to subsection 2, a municipality may enact
24 ordinances governing the procedures for granting franchises to ~~cable system operators~~
25 video service providers. These ordinances must be enacted before granting any such
26 franchise or franchises and must be designed to ensure that the terms and conditions of a
27 franchise will adequately protect the needs and interests of the municipality. The
28 ordinances must include, but are not limited to, provisions for the following:

29 A. A mechanism for determining special local needs or interests before issuing a
30 request for proposals, whether by actively seeking to determine those needs or interests
31 or by allowing a period for public comment on a proposed request for proposals;

32 B. The filing of franchise applications and related documents as public records, with
33 reasonable notice to the public that the records are open to inspection during reasonable
34 hours;

35 C. A reasonable opportunity for public input before granting franchises; and

36 D. The assessment of reasonable fees to defray the costs of public notice, advertising
37 and other expenses incurred by the municipality in acting upon applications.

38 **Sec. 11. 30-A MRSA §3008, sub-§5**, as amended by PL 2019, c. 245, §§1 to 3, is
39 further amended to read:

40 **5. Franchise agreements or contracts.** The State specifically authorizes municipal
41 officers pursuant to ordinances to contract on such terms and conditions and impose such
42 fees as ~~are in the best interests of the municipality~~ provided for under this subsection,

1 including the grant of ~~exclusive or~~ nonexclusive franchises for a period not to exceed 15
2 years, for the placing and maintenance of cable television systems and appurtenances, or
3 parts thereof, ~~along in~~ public ways and including contracts with ~~cable system operators~~
4 video service providers that receive the services of television signal transmission offered
5 by any public utilities using public ways for such transmission. A video service provider
6 may not offer or provide its services within a municipality unless it has entered into a
7 franchise agreement or contract with the municipality pursuant to this subsection. A public
8 utility may not be required to contract with the municipal officers under this subsection.
9 Each franchise must contain the following provisions:

10 A. The area or areas to be served;

11 B. A line extension policy, which must specify a minimum density requirement of no
12 more than 15 residences per linear strand mile of aerial cable for areas in which the
13 ~~cable system operator~~ video service provider will make cable television service
14 available to every residence with no mandatory preconditions. A strand mile under
15 this paragraph is measured from the end of the current cable system strand installation;

16 C. A provision for renewal, the term of which may not exceed 15 years. A provision
17 for automatic renewal or other provision for extending the initial term is prohibited.
18 Franchise renewal is governed by section 3010, subsection 5-C;

19 C-1. Provisions regarding the payment or remittance of any franchise fees by the video
20 service provider as may be required under the agreement or contract between the
21 municipality and the video service provider and in accordance with subsection 5-A;

22 D. Procedures for the investigation and resolution of complaints by the ~~cable system~~
23 ~~operator~~ video service provider;

24 D-1. A provision for the use and support of public, educational and governmental
25 access channels, which must be carried in the same manner and numerical location
26 sequence as are the local broadcast channels originating from the State and carried on
27 the cable television system pursuant to section 3010, subsection 5-A; and

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

29 **Sec. 12. 30-A MRSA §3008, sub-§5-A** is enacted to read:

30 **5-A. Franchise fees.** Beginning January 1, 2024, any new or renewed franchise
31 agreement or contract between a municipality and a video service provider that includes
32 provisions requiring payment of any franchise fees by the video service provider to the
33 municipality must include the following provisions.

34 A. The municipality is authorized to use the franchise fees for costs associated with
35 the regulation of the operation of the video service provider within the municipality; to
36 support the provision of public, educational and governmental programming within the
37 municipality; to offset municipal property taxes; or for any other purpose identified by
38 the municipality.

39 B. The franchise fees must be paid by the video service provider to the municipality
40 or its designee on a quarterly basis and must be received by the municipality or its
41 designee no later than 45 days after the end of the calendar quarter for which the
42 payment is made. If the video service provider fails to timely pay to the municipality
43 or its designee:

1 (1) Interest must accrue on the required, unpaid fees at the rate of 12% simple
2 interest per annum; and

3 (2) The repeated failure to timely pay such fees is a material breach of the terms
4 of the franchise agreement or contract, and the municipality may at its discretion
5 terminate the agreement or contract.

6 C. Each payment under paragraph B must include a statement prepared by a financial
7 representative or agent of the video service provider, testified and verified as correct,
8 identifying the total amount of gross annual revenue generated by all activities of the
9 provider within the municipality for that payment period and describing the
10 calculations used to determine the amount of the payment. The video service provider
11 shall prepare and maintain the financial information and records necessary to provide
12 the information required under this paragraph in accordance with accounting principles
13 and auditing standards generally accepted within the video service industry.

14 D. The municipality may request that the information provided by the video service
15 provider pursuant to paragraph C be subject to audit by a qualified 3rd party to be
16 selected by the municipality. The costs of the audit are to be paid by the municipality
17 except when the results of the audit demonstrate that the video service provider
18 underpaid by more than 4% any franchise fees required under the franchise agreement
19 or contract, in which case the video service provider must reimburse the municipality
20 for the costs of the audit.

21 E. A municipality's or its designee's acceptance of franchise fees paid by the video
22 service provider does not constitute an agreement by the municipality that the amount
23 of the fee is correct unless the municipality has not initiated a process to challenge or
24 audit the amount of the fee paid within 36 months of receipt or, in the case of a fee not
25 accompanied by a statement under paragraph C that is verified as correct, 48 months
26 of receipt. Prior to the expiration of such time period, the municipality may inspect
27 relevant financial information and records of the video service provider and initiate a
28 process to seek compensation for any underpayment.

29 **Sec. 13. 30-A MRSA §3008, sub-§7**, as amended by PL 2019, c. 245, §4, is further
30 amended to read:

31 **7. Model franchise agreement.** The Department of Administrative and Financial
32 Services, Office of Information Technology, or a successor state agency, referred to in this
33 subsection as "the office," shall develop and may update and amend a model franchise
34 agreement for use by any municipality and any ~~cable-system-operator~~ video service
35 provider that mutually choose to adopt the model franchise agreement or any of its
36 provisions. A ~~cable-system-operator~~ video service provider may not modify or amend the
37 model franchise agreement without the consent of the municipality. The office shall make
38 the model franchise agreement available on its publicly accessible website. In the
39 development of the model franchise agreement, the office shall, at a minimum, consider
40 the following issues:

41 A. Franchise fees;

42 B. Build-out requirements;

43 C. Public, educational and governmental access channels and reasonable facility
44 support equipment for such channels;

- 1 D. Customer service standards;
- 2 E. The disparate needs of the diverse municipalities in this State; and
- 3 F. The policy goal of promoting competition in the delivery of ~~eable television~~ video
- 4 service.

5 This subsection does not allow the office to establish prices for any ~~eable television~~ video
6 service or to regulate the content of ~~eable television service~~ video services.

7 **Sec. 14. 30-A MRSA §3008, sub-§8** is enacted to read:

8 **8. Authorized judicial actions; statute of limitations.** In accordance with the
9 authority provided in Title 5, chapter 10, the Attorney General may bring an action to
10 enforce the provisions of this section, including, but not limited to, an action to recover any
11 unpaid franchise fees and an action to enjoin the operation of an entity not in compliance
12 with the requirements of this section.

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

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

18 **Sec. 15. 30-A MRSA §3009-B** is enacted to read:

19 **§3009-B. Dispute resolution**

20 When there is a dispute between a municipality and a video service provider relating
21 to negotiations of a franchise agreement or contract, the obligations of the parties under the
22 agreement or contract or the obligations of the video service provider under sections 3008
23 and 3010, the municipality or video service provider may seek resolution under subsection
24 1 or 2. For purposes of this section, unless the context indicates otherwise, "video service
25 provider" has the same meaning as in section 3008, subsection 1-A, paragraph H.

26 **1. Public Utilities Commission process.** The Public Utilities Commission shall adopt
27 a process for dispute resolution between a municipality and a video service provider in
28 accordance with this subsection. The commission shall adopt rules to implement this
29 subsection, except that the commission may not adopt a process that addresses any
30 provision of section 3010 relating to consumer rights and protections. Rules adopted
31 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
32 subchapter 2-A.

33 **2. Binding arbitration.** A municipality or a video service provider may request
34 binding arbitration by a mutually agreed upon mediator from a statewide association of
35 mediators. The arbitration must be conducted consistent with the general procedures set
36 forth in the Uniform Arbitration Act. If the municipality and the video service provider are
37 unable to agree on an arbitrator, they may request that a statewide association of mediators
38 select an arbitrator.

39 **Sec. 16. 30-A MRSA §3010**, as amended by PL 2019, c. 657, §§1 and 2, is further
40 amended by amending the section headnote to read:

41 **§3010. Consumer rights and protection relating to ~~eable television service~~ services**
42 **provided by video service providers**

1 **Sec. 17. 30-A MRSA §3010, first ¶**, as amended by PL 2019, c. 245, §5, is further
2 amended to read:

3 This section applies to every franchisee. For purposes of this section, "franchisee"
4 means a ~~cable system operator~~ video service provider that is granted a franchise by a
5 municipality in accordance with section 3008. For purposes of this section, "cable system
6 operator," and "cable television service" and "video service provider" have the same
7 meanings as in section 3008, subsection 1-A, except that "~~cable system operator~~" "video
8 service provider" includes a cable system operator that is a multichannel video
9 programming distributor as defined in 47 United States Code, Section 522(13). For
10 purposes of this section, "originator" means a local unit of government or the entity to
11 which a local unit of government has assigned responsibility for managing public,
12 educational and governmental access channels.

13 **Sec. 18. 30-A MRSA §3010, sub-§1**, as amended by PL 2007, c. 548, §2, is further
14 amended to read:

15 **1. Credits and refunds for interruption of service.** Credits and refunds for
16 interruption of ~~cable television service~~ of video services provided by a franchisee must be
17 as follows.

18 A. In the event service to any subscriber is interrupted for 6 or more consecutive hours
19 in a 30-day period, the franchisee will, upon request, grant that subscriber a pro rata
20 credit or rebate.

21 B. An office of the franchisee must be open during usual business hours, have a listed
22 toll-free telephone and be capable of receiving complaints, requests for adjustments
23 and service calls.

24 C. The franchisee shall provide subscribers with 30 days' advance written notice of an
25 increase in rates, changes in billing practices, the movement of a channel to a different
26 location or service tier or the deletion of a channel.

27 **Sec. 19. 30-A MRSA §3010, sub-§2, ¶A**, as amended by PL 2007, c. 548, §2, is
28 further amended to read:

29 A. For each new subscriber, and annually thereafter, every franchisee shall cause to be
30 mailed to each of its subscribers a notice that:

31 (1) Informs subscribers of how to communicate their views and complaints to the
32 ~~cable system operator~~, video service provider and to the proper municipal official
33 and the Attorney General;

34 (2) States the responsibility of the Department of the Attorney General to receive,
35 investigate and resolve consumer complaints or complaints raised by the
36 franchising authority under section 3008 concerning matters other than ~~channel~~
37 selection program choices and rates;

38 (3) States the policy regarding and method by which subscribers may request
39 rebates or pro rata credits as described in subsection 1, paragraph A; and

40 (4) Informs subscribers of their right to request basic-tier, nonpremium
41 programming service and the cost of that service.

1 **Sec. 20. 30-A MRSA §3010, sub-§5**, as amended by PL 2007, c. 548, §2, is further
2 amended to read:

3 **5. Franchises.** All franchises must be nonexclusive. All franchises must include
4 provision for access to, and ~~facilities~~ facility support transmission equipment and public,
5 educational and governmental facility equipment necessary to make use of, one or more
6 local public, educational and governmental access channels subject to the definitions and
7 requirements of the Cable Communications Policy Act of 1984, Public Law 98-549 or
8 related requirements or regulations of the Federal Communications Commission.

9 As used in this subsection, "facility support transmission equipment" has the same meaning
10 as in section 3008, subsection 1-A, paragraph D. As used in this subsection, "public,
11 educational and governmental facility equipment" has the same meaning as in section 3008,
12 subsection 1-A, paragraph E.

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

15 **5-A. Public, educational and governmental access channels.** A ~~cable system operator~~
16 video service provider shall carry public, educational and governmental access channels on
17 the ~~cable system operator's~~ provider's basic cable or video service offerings or tiers
18 accessed through a cable television receiver or application. A ~~cable system operator~~ video
19 service provider may not separate public, educational and governmental access channels
20 numerically from other local broadcast channels carried on the ~~cable system operator's~~
21 provider's basic cable or video service offerings ~~or~~ or applications and, in the event
22 of a franchise license transfer, shall use the same channel numbers for the public,
23 educational and governmental access channels as used for those channels by the incumbent
24 ~~cable system operator~~ video service provider, unless prohibited by federal law. After the
25 initial designation of public, educational and governmental access channel numbers, a ~~cable~~
26 ~~system operator~~ video service provider may not change the channel numbers without the
27 agreement of the originator, unless the change is required by federal law.

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

32 As used in this subsection, "application" means a personal computing device program that
33 provides for the transmitting or streaming of video or audio content from a video service
34 provider over the Internet or other electronic communications network in real time or near
35 real time, allowing a user to receive video or audio content on a personal computing device
36 without downloading the entire content file.

37 **Sec. 22. 30-A MRSA §3010, sub-§5-B**, as enacted by PL 2019, c. 245, §6, is
38 amended by enacting at the end a new blocked paragraph to read:

39 This subsection is repealed December 31, 2023.

40 **Sec. 23. 30-A MRSA §3010, sub-§5-C**, as enacted by PL 2019, c. 245, §6, is
41 amended to read:

42 **5-C. Franchise renewals.** The franchise renewal process must be conducted in
43 compliance with 47 United States Code, Section 546 and this subsection.

1 A ~~cable system operator~~ video service provider shall maintain adequate personnel
2 and resources to respond to municipal requests for renewal information in a timely
3 manner. Failure to respond in a timely manner is a violation of the Maine Unfair Trade
4 Practices Act.

5 B. If an automatic renewal provision exists in a franchise agreement on the effective
6 date of this subsection, the automatic renewal provision remains in effect until that
7 franchise agreement expires. The ~~cable system operator~~ video service provider shall
8 notify the franchising authority of the automatic renewal no later than 36 months in
9 advance of the expiration of the franchise.

10 C. A municipality may require maps, diagrams, annual reports and franchise fee
11 statements at renewal, which the ~~cable system operator~~ video service provider shall
12 make available upon reasonable notice. If information is proprietary, the municipality
13 may execute a nondisclosure agreement with the ~~cable system operator~~ video service
14 provider.

15 **Sec. 24. 30-A MRSA §3010, sub-§5-D** is enacted to read:

16 **5-D. Transmission.** Beginning January 1, 2024, a video service provider shall
17 retransmit public, educational and governmental access channel signals in the format in
18 which they are received from the originator and at the same signal quality as that provided
19 to all subscribers of the cable television service for local broadcast channels. A video
20 service provider may not diminish, down convert or otherwise tamper with the signal
21 quality or format provided by the originator. A video service provider shall deliver a
22 public, educational or governmental access channel signal to the subscriber in a quality and
23 format equivalent to the quality and format of local broadcast channel signals carried on
24 the cable television service if provided as such by the originator. A video service provider
25 shall carry each public, educational or governmental access channel in both a high
26 definition format and a standard digital format in the same manner as that in which local
27 broadcast channels are provided, unless prohibited by federal law.

28 A video service provider, when requested, shall assist in providing the originator with
29 access to the entity that controls the cable television service's electronic program guide so
30 that subscribers may view, select and record public, educational and governmental access
31 channels in the same manner as that in which they view, select and record local broadcast
32 channels. In addition, a video service provider shall identify public, educational and
33 governmental access channels on the electronic program guide in the same manner as that
34 in which local broadcast channels are identified. This subsection does not obligate a video
35 service provider to list public, educational and governmental access channel content on
36 channel cards and channel listings. If channels are selected by a viewer through a menu
37 system, the video service provider shall display the public, educational and governmental
38 access channels' designations in a similar manner as that in which local broadcast channel
39 designations are displayed.

40 A video service provider shall make available to the originator a toll-free telephone number
41 with a direct line to a service technician who is familiar with the signal path and equipment
42 associated with public, educational and governmental access channels on the cable
43 television system for resolution of a signal quality problem.

44 **Sec. 25. 30-A MRSA §3010, sub-§6**, as amended by PL 2021, c. 553, §20, is
45 further amended to read:

1 **6. Rights of individuals.** A ~~cable system operator~~ video service provider may not
2 deny service, deny access or otherwise discriminate against subscribers, channel users or
3 general citizens on the basis of actual or perceived race, color, sex, sexual orientation,
4 gender identity, physical or mental disability, ancestry or national origin, age or familial
5 status.

6 **Sec. 26. 30-A MRSA §3010, sub-§6-A,** as amended by PL 2007, c. 548, §2, is
7 further amended to read:

8 **6-A. Subscriber privacy.** A ~~cable system operator~~ video service provider may not
9 intrude upon the privacy of a subscriber by installing or using any equipment that allows
10 the ~~cable system operator~~ video service provider to observe or to listen to what is occurring
11 in an individual subscriber's household or to monitor the viewing habits of the subscriber
12 without express, prior written consent of the subscriber. A ~~cable system operator~~ video
13 service provider may not sell, disclose or otherwise make available, or permit the use of,
14 lists of the names or addresses of its subscribers, or any list or other information that
15 identifies by name or address subscribers or subscriber viewing habits, to any person or
16 agency for any purpose whatsoever without the prior written consent of the subscriber
17 except that the ~~cable system operator~~ video service provider may make such lists available
18 to persons performing services for the ~~cable system operator~~ video service provider in
19 connection with its business or operations, such as a billing service, when the availability
20 of such lists is necessary to the performance of such services if, in either case, the persons
21 or entity receiving such lists agree in writing that they will not permit them to be made
22 available to any other party.

23 **Sec. 27. 30-A MRSA §3010, sub-§6-B,** as amended by PL 2007, c. 548, §2, is
24 further amended to read:

25 **6-B. Late fees.** A ~~cable system operator~~ video service provider may not charge a late
26 fee or other penalty or charge for late payment of any bill that exceeds 1.5% per month of
27 the amount due in the bill. If the bill includes separate charges for different levels of
28 service, a late fee or other penalty or charge must be calculated on the total amount overdue
29 for all levels of service and may not be calculated separately for each level of service. A
30 payment is not late under this subsection until at least 30 days after those services to which
31 the late fee applies have been received by the consumer.

32 **Sec. 28. 30-A MRSA §3010, sub-§8,** as enacted by PL 2007, c. 548, §2, is amended
33 to read:

34 **8. Filing of franchise agreements.** A ~~cable system operator~~ video service provider
35 that maintains a publicly accessible website shall post on that website a copy of the most
36 recently executed franchise agreement for each franchise that it has been granted by a
37 municipality in the State.

38 **Sec. 29. 35-A MRSA §2503, sub-§20,** as amended by PL 1995, c. 254, §5, is
39 further amended to read:

40 **20. Exclusive method.** Compliance with this section by any person is the exclusive
41 method of obtaining the rights and privileges conferred in this section and no person or
42 cooperative may be required, with respect to the location of its facilities, to comply with or
43 be subject to any other law, including, but not limited to, Title 30-A, chapter 165, except

1 that a person subject to Title 30-A, section 3008 must comply with the requirements of that
2 section with respect to the location of its facilities.

3 **SUMMARY**

4 This bill amends the State's laws governing municipal cable television systems
5 ordinances as follows.

6 1. It adds definitions for the terms "application"; "facility support transmission
7 equipment"; "public, educational and governmental facility equipment"; "public,
8 educational and governmental programming"; "public, educational and governmental
9 signal"; and "video service provider."

10 2. It amends those laws to clarify the regulation under those laws of video service
11 providers, which included cable system operators.

12 3. It clarifies the responsibility of a video service provider with respect to the costs
13 associated with public, educational and governmental facility transmission equipment.

14 4. It removes language authorizing municipalities to enter into exclusive franchise
15 agreements or contracts with a video service provider.

16 5. It prohibits video service providers from providing services within a municipality
17 unless the provider has entered into a franchise agreement or contract with that
18 municipality.

19 6. It requires a video service provider to carry public, educational and governmental
20 access channels on the provider's basic cable or video service offerings, tiers or
21 applications.

22 7. It eliminates mandatory preconditions for implementing the 15 residences per linear
23 strand mile.

24 8. It makes a technical correction to a provision in statute relating to liability of certain
25 entities with respect to obscene or defamatory statements or actions or invasion of privacy
26 occurring during any program.

27 9. It requires video service providers to pay a franchise fee on a quarterly basis to each
28 municipality with which it has a fee requirement.

29 10. It clarifies that all costs associated with public, educational and governmental
30 facility equipment used for the operation of public, educational and governmental access
31 channels within a franchising municipality, including technology upgrade costs for signal
32 quality improvement, are the responsibility of the video service provider that holds the
33 franchise agreement. The video service provider may not offset such costs through the
34 payment of required franchise fees, but may recover the costs through other means as
35 permitted by law, except facility support transmission equipment, which is the
36 responsibility of the video service provider.

37 11. It requires new facility support transmission equipment installed to be at the current
38 resolution technology afforded to broadcasting stations.

39 12. It authorizes the Attorney General to bring an enforcement action against a
40 noncompliant video service provider in accordance with its authority under the Maine
41 Unfair Trade Practices Act. It also authorizes a municipality to bring a similar enforcement

1 action. Both types of actions must be brought within 7 years of the date the cause of action
2 arose.

3 13. It clarifies that the consumer protection provisions in law currently available to
4 consumers with respect to cable television service apply to the services provided by video
5 service providers.

6 14. It excludes from otherwise applicable permitting requirements under the laws
7 regulating facilities in the public way the provision of services by a video service provider
8 that are instead regulated under the laws governing municipal cable television systems
9 ordinances, as amended by this legislation.

10 15. It establishes a dispute resolution process, to be overseen by the Public Utilities
11 Commission or through binding arbitration, for disputes that arise between a franchising
12 municipality and a video service provider over their respective obligations under a
13 franchise contract or agreement.