

Resolve 4 – 05/06

Passage 10/17/05 8-0 (Cohen abstaining)

JILL C. DUSON (MAYOR)(A/L)
PETER O'DONNELL (A/L)
JAMES F. CLOUTIER(A/L)
NICHOLAS M. MAVODONES (A/L)

CITY OF PORTLAND
IN THE CITY COUNCIL

WILLIAM R. GORHAM (1)
KAREN A. GERAGHTY (2)
DONNA J. CARR (3)
CHERYL A. LEEMAN (4)
JAMES I. COHEN (5)

RESOLUTION OPPOSING SENATE BILL 1504 KNOWN AS THE “BROADBAND INVESTMENT AND CONSUMER CHOICE ACT”

WHEREAS, on August 2, 2005, Senators John Ensign and John McCain introduced the Broadband Investment and Consumer Choice Act of 2005 (S. 1504); and

WHEREAS, the City Council of the City of Portland opposes the passage of S. 1504 because:

- The bill preempts all local authority over the provision of cable and video services within the community, including the ability of the local government to provide appropriate oversight to entities conducting business within their jurisdiction and in the local public rights-of-way;
- The City’s negotiated contract with its cable operator would be abrogated under the terms of the bill;
- The bill would substitute a new compensation methodology on the which denies the rights of the property owner to obtain fair and reasonable compensation for the use of public property for private gain;
- These requirements and restrictions would result in the creation of a subsidy to the cable and telecommunications industries; at the expense of the City’s taxpayers;
- The bill would substantially reduce the amount of capacity which may be required by local governments to meet their public, educational and government (“PEG”) access needs, while stripping the City of the ability to obtain capital support for the use of PEG capacity with the result that the community’s cable-related needs and interests would not be met;
- The bill would deprive local citizens of the ability to address local issues locally, by removing to the state all customer service issues, and further by denying consumers any form of recourse for any actions of a communications provider;
- The bill would eliminate any build-out requirements for any video service provider, thereby allowing providers to discriminate based on the wealth of the local neighborhoods they choose to serve;
- The bill would preempt any state or local law that is not generally applicable to all businesses, thereby potentially preempting any law applicable to only certain classes of businesses, such as utilities and rights-of-way users (such as requiring underground placement of facilities and ensuring electric code compliance);

- The bill would prohibit the City from imposing any fee for issuance of rights-of-way construction permits and imposes inappropriate federal government involvement in the basic day-to-day management of local rights-of-way;
- The bill would deprive the City of the authority to establish and maintain government owned and operated networks, known as institutional networks (I-Net), that may be utilized by first responders and other government officials in the day-to-day management of the City's business;
- The bill would permit broadened preemption of local zoning decisions relating to the placement of cell towers; and
- The bill would eliminate the protection the City currently has against liability for damages and attorneys fees in lawsuits brought by communication service providers against local governments;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, THAT

For the reasons stated above, the City Council of the City of Portland declares its opposition to S. 1504 and urges the Maine Congressional Delegation and all other members of Congress to oppose S. 1504; and

The City Council hereby directs that this Resolution be forwarded immediately to the Maine Congressional Delegation, other members of Congress as deemed appropriate, and to the President of the United States.