

## REPORT TO CITY COUNCIL

**DATE: JUNE 14, 2006**  
**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**  
**FROM: GREG RAMIREZ, CITY MANAGER**  
**BY: NATHAN HAMBURGER, ASSISTANT TO THE CITY MANAGER**  
**SUBJECT: OPPOSITION TO ASSEMBLY BILL 2987 (NUNEZ AND LEVINE)**

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City staff, along with assistance from the League of California Cities has been tracking proposed legislation throughout this legislative session. Assembly Bill 2987 (AB 2987) by Nunez and Levine is a current bill that is being proposed as a means to increase competition and ease entrance barriers for telecommunication companies in relation to providing cable services.

The telecommunications industry is successfully portraying local franchising as a significant barrier to entry, anti-competitive and anti-consumer. With new technologies, many of the existing telecommunication companies (traditional phone providers) are striving to offer “bundled” services that include high speed internet, local and long distance telephone and video/cable television services. Due to the different means through which these services are provided (landlines, broadband, VoIP), regulatory agencies found it difficult to define who had to obtain a franchise agreement with municipal agencies to offer services within the City’s established boundaries. Several of the current phone providers felt that they should be treated differently than existing cable companies due to the difference in how they deliver their product. AB 2987 is a means for new market entrants to avoid the municipal franchise agreement process and deal directly with the State of California.

If passed in its current format, this bill would create a state wide franchise that could be obtained by telecommunication companies wishing to offer video and cable service. The legislation designates the Department of Consumer Affairs as the division responsible for oversight of the franchise agreements, which is currently handled by each individual municipal agency. These new franchise agreements lack some of the backbone of our existing franchise agreements and make only vague references to certain municipal rights, such as the oversight of a city’s right-of-way and Public, Education and Governmental (PEG) channels.

There are also concerns about other sections of the bill that fail to thoroughly address existing municipal rights and consumer protection:

- This bill allows discriminatory behaviors based on income levels to occur. The bill permits video service providers to pick and choose the areas in a community that they will serve while ignoring other neighborhoods. Cities support competition in telecommunications, but such competition has to be fair to all Californians. Under current law, city officials decide the deployment of video services and have a record with the cable industry to prove that all areas of a community have been served. Under this law, the cable service providers will be put in charge of protecting the underserved with no means of verification that build out

- Public access to broadcasting is not protected. AB 2987 fails to adequately protect the community’s PEG channels. These channels are important assets in a community that permit the televising of community events, governmental deliberations, and educational opportunities. The current language permits new video service providers to ignore this commitment to the community.
- The bill lacks protection of our local right of ways. It allows new cable market entrants to access local streets under a new set of rules not established by municipal agencies. Agoura Hills has established standard expectations on how streets should be repaired following demolition by a utility company to access their equipment or facilities. These standards could be possibly preempted by wording in the new state controlled franchise agreements.
- The local government revenues from franchise fees are in jeopardy in the current language of this bill. Serious legal flaws remain. The bill in its current form is a tax under the constitution of the state. The language needs to be amended to ensure that the traditional local franchise fee for local government are maintained and not taken over and preempted by the state tax currently in the bill. In addition, the bill narrows the definition of “gross revenues” that is the basis for calculating local government revenues, likely resulting in a revenue loss. Agoura Hills collects approximately \$170,000 annually from the two existing cable franchise agreements, which is used to staff and operate the public access channel and other related services.

This bill, in its current format, has been presented and approved by the State Assembly with a final vote of 77-0-3. The entire State Senate will now review the bill sometime in late June or early July. In light of AB 2987’s current status, the League of California Cities is urging municipal agencies to make their opposition to this bill readily known. Staff has reviewed the bill and is in agreement with the League that if passed, this bill, in its current form, would have a negative impact on the City of Agoura Hills.

**RECOMMENDATION**

Staff is recommending that the City Council instruct staff to prepare a letter, for signature by the Mayor, opposing AB 2987 to be sent to the City’s respective State representative and authors of the bill.

Attachment: Assembly Bill No. 2987 – Amended