

LEGISLATIVE HISTORY CHECKLIST

NJSA: 48:5A-17

(CATV companies-- appeals to BPU following county's refusal to act)

CHAPTER 163

Laws Of: 1986

Bill No: S2035

Sponsor(s): Rand

Date Introduced: April 21, 1986

Committee: Assembly: Transportation, Communications & High Technology

Senate: Transportation & Communications

Amended during passage: No

Date of Passage: Assembly: October 23, 1986

Senate: September 15, 1986

Date of Approval: December 2, 1986

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

SENATE, No. 2035

STATE OF NEW JERSEY

INTRODUCED APRIL 21, 1986

By Senator RAND

Referred to Committee on Transportation and Communications

AN ACT concerning county actions or authorizations involving cable television companies and amending P. L. 1972, c. 186.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 17 of P. L. 1972, c. 186 (C. 48:5A-17) is amended to
2 read as follows:

3 17. a. The board shall issue a certificate of approval when, after
4 reviewing the application, and after hearing if one is held, the
5 applicant establishes to its satisfaction that the applicant has
6 all the municipal consents necessary to support the application,
7 that such consents and the issuance thereof are in conformity with
8 the requirements of this act, and that the applicant has complied
9 or is ready, willing and able to comply with all applicable rules and
10 regulations imposed by or pursuant to State or federal law as
11 preconditions for engaging in his proposed CATV operations;
12 provided, that in the case of any application which has omitted the
13 attachment of municipal consent in the circumstance provided for
14 in subsection a. of section 16 of this act, the board shall condition
15 the issuance of the certificate upon the applicant's reasonably
16 prompt attainment of the omitted municipal consent or reasonably
17 prompt initiation of proceedings under subsection d. of this section.

18 b. In considering any such application, the board shall take into
19 consideration the probable effects upon both the area for which
20 certification is sought and neighboring areas not covered in the
21 municipal consents; and if it finds that the probable effects, for
22 technical and financial reasons, would be to impede the development
23 of adequate cable television service, or create an unreasonable
24 duplication of services likely to be detrimental to the development

Matter printed in italics thus is new matter.

25 of adequate cable television service in any area either within or
26 without the area for which certification is sought, it may deny the
27 certificate or it may amend the certificate in issuing it so as to:

28 (1) Direct that areas covered in the application be excluded from
29 the area certified; or

30 (2) Direct that areas not covered in the application be included
31 in the area certified.

32 c. No such certificate amended pursuant to subsection b. of this
33 section shall be issued except after hearing of which each affected
34 municipality shall be given notice and afforded opportunity to be
35 heard. No such amended certificate shall be issued which would
36 impair the terms of any existing certificate or of any municipal
37 consent upon which such existing certificate is based, except with
38 the consent of the holder of such existing certificate and of any
39 municipality having issued such municipal consent.

40 d. If a municipality shall arbitrarily refuse to grant the munic-
41 ipal consent required under the terms of this act prerequisite to
42 issuance of a certificate, or to act upon an application for such
43 municipal consent within 90 days after such application is filed,
44 then the applicant CATV company may avoid the necessity of first
45 obtaining such municipal consent by showing to the satisfaction of
46 the board that the municipal consent is being arbitrarily withheld.
47 But any CATV company certificated without municipal consent
48 shall nevertheless pay the franchise tax to the municipality imposed
49 under section 30 of this act. An application for certificate filed
50 pursuant to this subsection shall be accompanied by a filing fee of
51 \$200.00.

52 e. If any municipality or county shall refuse to any CATV com-
53 pany, whether the holder of a municipal consent from that munici-
54 pality or otherwise, any zoning variance or other municipal act or
55 authorization, or any county act or authorization, necessary to per-
56 mit such company to locate any facility of such company within
57 such municipality or county, or to install transmission facilities
58 through such municipality or county for the purpose of serving
59 subscribers or customers in any area for which such company has
60 been issued a certificate by the board, the company may apply to
61 the board for an order setting aside such municipal or county
62 refusal and permitting such location of facility or installation of
63 transmission facilities as requested by the company. An applica-
64 tion pursuant to this subsection shall be accompanied by a filing
65 fee of \$200.00. The board, after hearing upon notice and full
66 opportunity for both the applicant and the municipality or county
67 to be heard, shall issue such order when it appears to the board's

68 satisfaction that such permission is necessary to enable the com-
69 pany to provide safe, adequate and proper CATV service to its
70 customers or subscribers in the manner required by this act, and
71 that such location or installation will not adversely affect the public
72 health, safety and welfare.

73 f. The director shall issue a certificate to any CATV company
74 lawfully engaged in the construction, extension or operation of a
75 CATV system on the effective date of this act, for the construction,
76 extension or operation then being conducted, without further re-
77 view, if application for such certificate is filed with the board
78 within 90 days after such effective date. The construction, extension
79 or operation of such a CATV system may be lawfully continued
80 pending the filing of such an application unless the director orders
81 otherwise. An application for such certificate which is untimely
82 shall be determined in accordance with the procedures prescribed
83 in subsections a. through d. of this section. A certificate issued
84 under this subsection shall expire five years from the date of issu-
85 ance; and no CATV company holding such certificate shall be au-
86 thorized to continue its operations after such expiration unless
87 prior thereto it shall have obtained a certificate under the proce-
88 dures specified in subsections a. through d. of this section, except
89 that such a CATV company which has initiated proceedings for
90 certification under subsections a. through d. of this section prior
91 to the expiration of a certificate granted under this subsection may
92 continue its operations pending the final disposition of such pro-
93 ceedings. An application pursuant to this subsection shall be ac-
94 companied by a filing fee of \$50.00.

1 2. This act shall take effect immediately.

STATEMENT

This bill allows a cable television company to apply to the Board of Public Utilities for an order setting aside a county's refusal to act or grant authorization necessary to permit the cable television company to locate any facility of the company within a municipality or county in accordance with the cable television company's certification of approval. This procedure already exists in cases of a municipality's refusal to act or grant authorizations.

COMMUNICATIONS

Allows a CATV company to apply to the Board of Public Utilities to set aside a county's refusal to act or grant authorization necessary for the CATV company to operate in that county.

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52035 (1986)

ASSEMBLY TRANSPORTATION, COMMUNICATIONS
AND HIGH TECHNOLOGY COMMITTEE

STATEMENT TO

SENATE, No. 2035

STATE OF NEW JERSEY

DATED: SEPTEMBER 18, 1986

The Assembly Transportation, Communications and High Technology Committee reports favorably Senate Bill No. 2035.

This bill amends existing law to permit a cable television company to apply to the Board of Public Utilities for an order setting aside a county's refusal to act or grant authorization necessary to permit the cable television company to locate any facility of the company within a municipality or county or to install transmission facilities, in accordance with the cable television company's certificate of approval. The procedure already exists in cases of a municipality's refusal to act or grant authorizations.

This bill is identical to Assembly Bill No. 2765, also reported favorably by the committee.

SENATE TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 2035

STATE OF NEW JERSEY

DATED: MAY 19, 1986

The Senate Transportation and Communications Committee reports favorably Senate Bill No. 2035.

This bill amends existing law to permit a cable television company to apply to the Board of Public Utilities for an order setting aside a county's refusal to act or grant authorization necessary to permit the cable television company to locate any facility of the company within a municipality or county or to install transmission facilities, in accordance with the cable television company's certificate of approval. The procedure already exists in cases of a municipality's refusal to act or grant authorizations.

Assembly Bill No. 2260, sponsored by Assemblyman McEnroe, provides for the expansion of the approval powers of county planning boards in development matters. Senate Bill No. 2035 would give to the BPU the power to overturn approval decisions of these boards in regard to the aforementioned cable television matters.