



§6 - C.48:5A-64  
§7 - T&E  
§8 - C.48:5A-26.1  
§9 - Note to §§1-8

P.L. 2003, CHAPTER 38, *approved April 14, 2003*  
Senate, No. 668 (*First Reprint*)

1 **AN ACT** concerning the provision of cable television service and  
2 telecommunications service, amending R.S.40:48-1, P.L.1971,  
3 c.198, and amending and supplementing P.L.1972, c.186.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. R.S.40:48-1 is amended to read as follows:

9 40:48-1. Ordinances; general purpose. The governing body of  
10 every municipality may make, amend, repeal and enforce ordinances  
11 to:

12 Finances and property. 1. Manage, regulate and control the  
13 finances and property, real and personal, of the municipality;

14 Contracts and contractor's bonds. 2. Prescribe the form and  
15 manner of execution and approval of all contracts to be executed by  
16 the municipality and of all bonds to be given to it;

17 Officers and employees; duties, terms and salaries. 3. Prescribe  
18 and define, except as otherwise provided by law, the duties and terms  
19 of office or employment, of all officers and employees; and to  
20 provide for the employment and compensation of such officials and  
21 employees, in addition to those provided for by statute, as may be  
22 deemed necessary for the efficient conduct of the affairs of the  
23 municipality;

24 Fees. 4. Fix the fees of any officer or employee of the municipality  
25 for any service rendered in connection with his office or position, for  
26 which no specific fee or compensation is provided. In the case of  
27 salaried officers or employees, such fee shall be paid into the municipal  
28 treasury;

29 Salaries instead of fees; disposition of fees. 5. Provide that any  
30 officer or employee receiving compensation for his services, in whole  
31 or in part by fees, whether paid by the municipality or otherwise, shall  
32 be paid a salary to be fixed in the ordinance, and thereafter all fees  
33 received by such officer or employee shall be paid into the municipal  
34 treasury;

35 Maintain order. 6. Prevent vice, drunkenness and immorality; to  
36 preserve the public peace and order; to prevent and quell riots,  
37 disturbances and disorderly assemblages; to prohibit the consumption  
38 of alcoholic beverages by underage persons on private property

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Senate SCM committee amendments adopted June 20, 2002.**

1 pursuant to section 1 of P.L.2000, c.33 (C.40:48-1.2);  
2 Punish beggars; prevention of loitering. 7. Restrain and punish  
3 drunkards, vagrants, mendicants and street beggars; to prevent  
4 loitering, lounging or sleeping in the streets, parks or public places;  
5 Auctions and noises. 8. Regulate the ringing of bells and the  
6 crying of goods and other commodities for sale at auction or  
7 otherwise, and to prevent disturbing noises;  
8 Swimming; bathing costume; prohibition of public nudity. 9.  
9 Regulate or prohibit swimming or bathing in the waters of, in, or  
10 bounding the municipality, and to regulate or prohibit persons from  
11 appearing upon the public streets, parks and places clad in bathing  
12 costumes or robes, or costumes of a similar character; regulate or  
13 prohibit persons from appearing in a state of nudity upon all lands  
14 within its borders which are under the jurisdiction of the State  
15 including, without limitation, all lands owned by, controlled by,  
16 managed by or leased by the State;  
17 Prohibit annoyance of persons or animals. 10. Regulate or prohibit  
18 any practice tending to frighten animals, or to annoy or injure persons  
19 in the public streets;  
20 Animals; pounds; establishment and regulation. 11. Establish and  
21 regulate one or more pounds, and to prohibit or regulate the running  
22 at large of horses, cattle, dogs, swine, goats and other animals, and to  
23 authorize their impounding and sale for the penalty incurred, and the  
24 costs of impounding, keeping and sale; to regulate or prohibit the  
25 keeping of cattle, goats or swine in any part of the municipality; to  
26 authorize the destruction of dogs running at large therein;  
27 Hucksters. 12. Prescribe and regulate the place of vending or  
28 exposing for sale articles of merchandise from vehicles;  
29 Building regulations; wooden structures. 13. Regulate and control  
30 the construction, erection, alteration and repair of buildings and  
31 structures of every kind within the municipality; and to prohibit,  
32 within certain limits, the construction, erection or alteration of  
33 buildings or structures of wood or other combustible material;  
34 Inflammable materials; inspect docks and buildings. 14. Regulate  
35 the use, storage, sale and disposal of inflammable or combustible  
36 materials, and to provide for the protection of life and property from  
37 fire, explosions and other dangers; to provide for inspections of  
38 buildings, docks, wharves, warehouses and other places, and of goods  
39 and materials contained therein, to secure the proper enforcement of  
40 such ordinance;  
41 Dangerous structures; removal or destruction; procedure. 15.  
42 Provide for the removal or destruction of any building, wall or  
43 structure which is or may become dangerous to life or health, or might  
44 tend to extend a conflagration; and to assess the cost thereof as a  
45 municipal lien against the premises;  
46 Chimneys and boilers. 16. Regulate the construction and setting

1 up of chimneys, furnaces, stoves, boilers, ovens and other contrivances  
2 in which fire is used;

3 Explosives. 17. Regulate, in conformity with the statutes of this  
4 State, the manufacture, storage, sale, keeping or conveying of  
5 gunpowder, nitroglycerine, dynamite and other explosives;

6 Firearms and fireworks. 18. Regulate and prohibit the sale and use  
7 of guns, pistols, firearms, and fireworks of all descriptions;

8 Soft coal. 19. Regulate the use of soft coal in locomotives,  
9 factories, power houses and other places;

10 Theatres, schools, churches and public places. 20. Regulate the  
11 use of theatres, cinema houses, public halls, schools, churches, and  
12 other places where numbers of people assemble, and the exits  
13 therefrom, so that escape therefrom may be easily and safely made in  
14 case of fire or panic; and to regulate any machinery, scenery, lights,  
15 wires and other apparatus, equipment or appliances used in all places  
16 of public amusement;

17 Excavations. 21. Regulate excavations below the established grade  
18 or curb line of any street, not greater than eight feet, which the owner  
19 of any land may make, in the erection of any building upon his own  
20 property; and to provide for the giving of notice, in writing, of such  
21 intended excavation to any adjoining owner or owners, and that they  
22 will be required to protect and care for their several foundation walls  
23 that may be endangered by such excavation; and to provide that in  
24 case of the neglect or refusal, for 10 days, of such adjoining owner or  
25 owners to take proper action to secure and protect the foundations of  
26 any adjacent building or other structure, that the party or parties  
27 giving such notice, or their agents, contractors or employees, may  
28 enter into and upon such adjoining property and do all necessary work  
29 to make such foundations secure, and may recover the cost of such  
30 work and labor in so protecting such adjacent property; and to make  
31 such further and other provisions in relation to the proper conduct and  
32 performance of said work as the governing body or board of the  
33 municipality may deem necessary and proper;

34 Sample medicines. 22. Regulate and prohibit the distribution,  
35 depositing or leaving on the public streets or highways, public places  
36 or private property, or at any private place or places within any such  
37 municipality, any medicine, medicinal preparation or preparations  
38 represented to cure ailments or diseases of the body or mind, or any  
39 samples thereof, or any advertisements or circulars relating thereto,  
40 but no ordinance shall prohibit a delivery of any such article to any  
41 person above the age of 12 years willing to receive the same;

42 Boating. 23. Regulate the use of motor and other boats upon  
43 waters within or bounding the municipality;

44 Fire escapes. 24. Provide for the erection of fire escapes on  
45 buildings in the municipality, and to provide rules and regulations  
46 concerning the construction and maintenance of the same, and for the

1 prevention of any obstruction thereof or thereon;

2 Care of injured employees. 25. Provide for the payment of  
3 compensation and for medical attendance to any officer or employee  
4 of the municipality injured in the performance of his duty;

5 Bulkheads and other structures. 26. Fix and determine the lines of  
6 bulkheads or other works or structures to be erected, constructed or  
7 maintained by the owners of lands facing upon any navigable water in  
8 front of their lands, and in front of or along any highway or public  
9 lands of said municipality, and to designate the materials to be used,  
10 and the type, height and dimensions thereof;

11 Lifeguard. 27. Establish, maintain, regulate and control a lifeguard  
12 upon any beach within or bordering on the municipality;

13 Appropriation for life-saving apparatus. 28. Appropriate moneys  
14 to safeguard people from drowning within its borders, by location of  
15 apparatus or conduct of educational work in harmony with the plans  
16 of the United States volunteer life-saving corps in this State;

17 Fences. 29. Regulate the size, height and dimensions of any fences  
18 between the lands of adjoining owners, whether built or erected as  
19 division or partition fences between such lands, and whether the same  
20 exist or be erected entirely or only partly upon the lands of any such  
21 adjoining owners, or along or immediately adjacent to any division or  
22 partition line of such lands. To provide, in such ordinance, the manner  
23 of securing, fastening or shoring such fences, and for surveying the  
24 land when required by statute, and to prohibit in any such ordinance  
25 the use at a height of under 10 feet from the ground, of any device,  
26 such as wire or cable, that would be dangerous to pedestrians,  
27 equestrians, bicyclists, or drivers of off-the-road vehicles, unless that  
28 device is clearly visible to pedestrians, equestrians, bicyclists or drivers  
29 of off-the-road vehicles. In the case of fences thereafter erected  
30 contrary to the provisions thereof, the governing body may provide for  
31 a penalty for the violation of such ordinance, and in the case of such  
32 fence or fences erected or existing at the time of the passage of any  
33 such ordinance, may provide therein for the removal, change or  
34 alteration thereof, so as to make such fence or fences comply with the  
35 provisions of any such ordinance;

36 Advertise municipality. 30. Appropriate funds for advertising the  
37 advantages of the municipality;

38 Government Energy Aggregation Programs. 31. Establish  
39 programs and procedures pursuant to which the municipality may act  
40 as a government aggregator pursuant to sections 40 through 45 of  
41 P.L.1999, c.23 (C.48:3-89 through C.48:3-94). Notwithstanding the  
42 provisions of any other law, rule or regulation to the contrary, a  
43 municipality acting as a government aggregator pursuant to P.L.1999,  
44 c.23 (C.48:3-49 et al.) shall not be deemed to be a public utility  
45 pursuant to R.S.40:62-24 or R.S.48:1-1 et seq. or be deemed to be  
46 operating any form of public utility service pursuant to R.S.40:62-1 et

1 seq., to the extent such municipality is solely engaged in the provision  
2 of such aggregation service and not otherwise owning or operating any  
3 plant or facility for the production or distribution of gas, electricity,  
4 steam or other product as provided in R.S.40:62-12;

5 <sup>1</sup>[Hybrid fiber optic and coaxial cable telecommunications network.  
6 32. Provide for the funding, erection, installation and operation of a  
7 telecommunications network consisting of hybrid fiber optic and  
8 coaxial cables and associated equipment on existing rights of way  
9 within the municipality and regulate the operation of the network.  
10 Notwithstanding the provisions of any other law, rule or regulation to  
11 the contrary, a municipality providing for such network shall not be  
12 deemed to be a public utility pursuant to R.S.40:62-1 et seq. or  
13 R.S.48:1-1 et seq. A municipality may provide for the funding,  
14 erection, installation and operation of a telecommunications network  
15 through a contract with a private entity provided that the municipality  
16 shall adhere to the provisions of the "Local Public Contracts Law,"  
17 P.L.1971, c.198 (C.40A:11-1 et seq.);]<sup>1</sup>

18 Joint municipal action on consent for the provision of cable  
19 television service. <sup>1</sup>[33.] 32. <sup>1</sup> Establish programs and procedures  
20 pursuant to which a municipality may act together with one or more  
21 municipalities in granting municipal consent for the provision of cable  
22 television service pursuant to the provisions of the "Cable Television  
23 Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and  
24 supplemented. Notwithstanding the provisions of any other law, rule  
25 or regulation to the contrary, two or more municipalities acting jointly  
26 pursuant to the provisions of P.L.1972, c.186 shall not be deemed a  
27 public utility pursuant to R.S.48:1-1 et seq., to the extent those  
28 municipalities are solely engaged in granting municipal consent jointly  
29 and are not otherwise owning or operating any facility for the  
30 provision of cable television service as provided in P.L.1972, c.186;

31 Private cable television service aggregation programs. <sup>1</sup>[34] 33. <sup>1</sup>  
32 Establish programs and procedures pursuant to which a municipality  
33 may employ the services of a private aggregator for the purpose of  
34 facilitating the joint action of two or more municipalities in granting  
35 municipal consent for the provision of cable television service  
36 provided that any such municipality shall adhere to the provisions of  
37 the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as  
38 amended and supplemented, and to the provisions of the "Local Public  
39 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) as amended  
40 and supplemented. Notwithstanding the provisions of any other law,  
41 rule or regulation to the contrary, a municipality that employs the  
42 services of a private aggregator pursuant to the provisions of  
43 P.L.1972, c.186 shall not be deemed a public utility pursuant to  
44 R.S.48:1-1 et seq., to the extent that the municipality is solely engaged  
45 in employing the services of a private aggregator for the purpose of  
46 facilitating the joint action of two or more municipalities in granting

1 municipal consent and is not otherwise owning or operating any  
2 facility for the provision of cable television service as provided in  
3 P.L.1972, c.186.

4 (cf: P.L.2001, c.36, s.1)

5

6 2. Section 10 of P.L.1971, c.198 (C.40A:11-10) is amended to  
7 read as follows:

8 10. Joint agreements for provision and performance of goods and  
9 services; cooperative marketing; authorization.

10 (a) (1) The governing bodies of two or more contracting units may  
11 provide by joint agreement for the provision and performance of goods  
12 and services for use by their respective jurisdictions.

13 (2) The governing bodies of two or more contracting units  
14 providing sewerage services pursuant to the "sewerage authorities  
15 law," P.L.1946, c.138 (C.40:14A-1 et seq.), the "municipal and county  
16 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.),  
17 R.S.58:14-1 et seq. or R.S.40:63-68 et seq. may provide by joint  
18 agreement for the purchase of goods and services related to sewage  
19 sludge disposal.

20 (3) The governing body of two or more contracting units providing  
21 electrical distribution services pursuant to and in accordance with  
22 R.S.40:62-12 through R.S.40:62-25, may provide by joint agreement  
23 for the provision or performance of goods or services related to the  
24 distribution of electricity.

25 (4) The governing bodies of two or more contracting units may  
26 provide for the cooperative marketing of recyclable materials  
27 recovered through a recycling program.

28 (5) The governing bodies of two or more contracting units may  
29 provide by joint agreement for the purchase of the services of a private  
30 aggregator for the purpose of facilitating the joint action of two or  
31 more municipalities in granting municipal consent for the provision of  
32 cable television service pursuant to R.S.40:48-1 et seq. and the "Cable  
33 Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and  
34 supplemented.

35 (b) The governing body of any contracting unit may provide by  
36 joint agreement with the board of education of any school district for  
37 the provision and performance of goods and services for use by their  
38 respective jurisdictions.

39 (c) Such agreement shall be entered into by resolution adopted by  
40 each of the participating bodies and boards, which shall set forth the  
41 categories of goods or services to be provided or performed, the  
42 manner of advertising for bids and of awarding of contracts, the  
43 method of payment by each participating body and board, and other  
44 matters deemed necessary to carry out the purposes of the agreement.

45 (d) Each participating body's and board's share of expenditures for  
46 purchases under any such agreement shall be appropriated and paid in

1 the manner set forth in the agreement and in the same manner as for  
2 other expenses of the participating body and board.

3 (cf: P.L.1999, c.440, s.16)

4

5 3. Section 3 of P.L.1972, c.186 (C.48:5A-3) is amended to read as  
6 follows:

7 3. As used in this act, except as the context may otherwise clearly  
8 require or indicate:

9 a. "Board" means the Board of Public Utilities [of the Department  
10 of Energy] of this State.

11 b. "Office" means the Office of Cable Television established by this  
12 act.

13 c. "Director" means the Director of the Office of Cable Television.

14 d. "Cable television system" or "CATV system" means any facility  
15 within this State which is operated or intended to be operated to  
16 perform the service of receiving and amplifying the signals broadcast  
17 by one or more television stations and redistributing such signals by  
18 wire, cable or other device or means for accomplishing such  
19 redistribution, to members of the public who subscribe to such service,  
20 or distributing through its facility any television signals, whether  
21 broadcast or not; or any part of such facility. The term "facility" as  
22 used in this subsection includes all real property, antennae, poles,  
23 wires, cables, conduits, amplifiers, instruments, appliances, fixtures  
24 and other personal property used by a CATV company in providing  
25 service to its subscribers and customers.

26 e. "Cable television reception service" means the simultaneous  
27 delivery through a CATV system of the signals of television broadcast  
28 stations to members of the public subscribing to such service, which  
29 service may include additional nonbroadcast signals delivered as a part  
30 of the service with no additional charge.

31 f. "Cable communications system" or "cable communications  
32 service" means any communications service other than cable television  
33 reception service delivered through the facilities of a CATV system  
34 and for which charges in addition to or other than those made for cable  
35 television reception service are made or proposed to be made.

36 g. "Cable television company" or "CATV company" means any  
37 person owning, controlling, operating or managing a cable television  
38 system, and the term "person" as used herein shall be construed,  
39 without limiting the generality thereof, to include specifically any  
40 agency or instrumentality of this State or of any of its political  
41 subdivisions; but this definition shall not include a telephone, telegraph  
42 or electric utility company regulated by the Board of Public Utilities  
43 in a case where it merely leases or rents or otherwise provides to a  
44 CATV company wires, conduits, cables or pole space used in the  
45 redistribution of television signals to or toward subscribers or  
46 customers of such CATV company.



- 1 h. "Highway" includes every street, road, alley, thoroughfare, way  
2 or place of any kind used by the public or open to the use of the  
3 public.
- 4 i. "Certificate" means a certificate of approval issued, or which may  
5 be issued, by the board pursuant to this act.
- 6 j. "Cable television service" includes the definitions of cable  
7 television reception service and cable communications service herein,  
8 as well as the provision of any other impulse or signal by a cable  
9 television company or other service lawfully provided, utilizing the  
10 facilities of the system.
- 11 k. "Basic cable service" means any service tier which includes the  
12 retransmission of local television broadcast signals.
- 13 l. "Hearing impaired individual" means an individual who, because  
14 of injury to, disease of, or defect in the inner, middle or outer ear, or  
15 any combination thereof, has suffered a loss of hearing acuity such that  
16 the individual cannot receive linguistic information without  
17 amplification, dubbing or captions.
- 18 m. "In series connection" means a connection where the coaxial  
19 service wire entering the residence of a subscriber connects first to a  
20 television receiver or monitor, with the television receiver or monitor  
21 being connected by coaxial wire to a video cassette recorder or other  
22 auxiliary equipment or where the coaxial service wire connects first to  
23 a video cassette recorder or auxiliary equipment, with the equipment  
24 being connected to a television receiver or monitor and where no  
25 external splitting device is used.
- 26 n. "Municipality" means one municipality acting singularly or two  
27 or more municipalities acting jointly in the granting of municipal  
28 consent for the provision of cable television service in accordance with  
29 the provisions of the "Cable Television Act," P.L.1972, c.186  
30 (C.48:5A-1 et seq.) as amended and supplemented.
- 31 o. "Open video system" means a facility consisting of a set of  
32 transmission paths and associated signal generation, reception, and  
33 control equipment that is designed to provide cable television service  
34 to multiple subscribers within a municipality and which has been  
35 certified by the Federal Communications Commission as being in  
36 compliance with Part 76 "Multichannel Video and Cable Television  
37 Service" of Title 47 of the Code of Federal Regulations.
- 38 p. "Private aggregator" means a duly-organized business or non-  
39 profit organization authorized to do business in this State that enters  
40 into a contract with two or more municipalities for the purpose of  
41 facilitating the joint action of those municipalities in granting municipal  
42 consent for the provision of cable television service to those  
43 municipalities.
- 44 (cf: P.L.1987, c.395, s.1)

1       4. Section 19 of P.L.1972, c.186 (C.48:5A-19) is amended to read  
2 as follows:

3       19. A certificate of approval issued by the board shall be  
4 nontransferable, except by consent of the board; shall specify the area  
5 to which it applies and the municipal consents upon which it is based,  
6 and shall be valid for ~~[15]~~ <sup>1</sup>~~[five]~~ 15<sup>1</sup> years from the date of issuance  
7 or 20 years from the date of issuance if the board certifies that a  
8 CATV company has implemented an open video system in accordance  
9 with 47 U.S.C. s.573 within one year after receiving a municipal  
10 consent, or until the expiration, revocation, termination or  
11 renegotiation of any municipal consent upon which it is based,  
12 whichever is sooner. But amendment of the terms of a municipal  
13 consent by mutual consent and in conformity with the procedures  
14 specified in this act during the term for which it was issued shall not  
15 require the issuance of a new certificate of approval. A CATV  
16 company holding a certificate based upon a municipal consent with a  
17 provision for automatic renewal for a term not exceeding ~~[10]~~  
18 <sup>1</sup>~~[three]~~ 10<sup>1</sup> years beyond its expiration date or <sup>1</sup>~~[10]~~ 15<sup>1</sup> years  
19 beyond its expiration date if the board certifies that the CATV  
20 company has implemented an open video system in accordance with 47  
21 U.S.C. s.573, shall be entitled to automatic reissuance of a certificate  
22 for such term, unless it shall forfeit such entitlement by violation of  
23 any terms of this act, regulations issued pursuant thereto, or by the  
24 terms of the municipal consent.  
25 (cf: P.L.1972, c.186, s.19)

26  
27       5. Section 25 of P.L.1972, c.186 (C.48:5A-25) is amended to read  
28 as follows:

29       25. A municipal consent issued pursuant to this act shall conform  
30 in form and substance to all requirements of this act and of rules,  
31 regulations and orders duly promulgated by the director. It shall  
32 specify with particularity the territory to which it applies, and the term  
33 for which it is issued. Such term shall not exceed ~~[15]~~ <sup>1</sup>~~[five]~~ 15<sup>1</sup>  
34 years or 20 years if the board certifies that a CATV company has  
35 implemented an open video system in accordance with 47 U.S.C. s.573  
36 within one year after receiving a municipal consent; but provision may  
37 be included for automatic renewal at the expiration thereof for an  
38 additional term not exceeding ~~[10]~~ <sup>1</sup>~~[three]~~ 10<sup>1</sup> years or <sup>1</sup>~~[10]~~ 15<sup>1</sup>  
39 years if the board certifies that the CATV company has implemented  
40 an open video system in accordance with 47 U.S.C. s.573, unless  
41 either the municipality or the company shall not later than 60 days  
42 before the expiration of the initial term serve upon the other party  
43 notice of its intention not to accept such renewal. No CATV company  
44 whose municipal consent or renewal thereof has expired shall be  
45 authorized to continue its operations unless prior to such expiration it  
46 has obtained a certificate of approval from the board authorizing such

1 continued operation, except that such a CATV company which has  
2 initiated proceedings to obtain such certification from the board prior  
3 to the expiration of the municipal consent may continue its operations  
4 pending the final disposition of such proceedings.

5 (cf: P.L.1972, c.186, s.25)

6

7 6. (New section) a. A private aggregator may enter into a  
8 contract with two or more municipalities for the purpose of facilitating  
9 the joint action of those municipalities in granting municipal consent  
10 for the provision of cable television service, pursuant to the "Cable  
11 Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and  
12 supplemented, subject to the requirements of the "Local Public  
13 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

14 b. A private aggregator shall register with the office, which shall  
15 include the filing of basic information pertaining to the aggregator,  
16 such as name, address, telephone number, business or organization  
17 background, and business or organization profile. A private  
18 aggregator shall provide annual updates of this information to the  
19 office. <sup>1</sup>[The registration shall also include evidence of financial  
20 integrity, as determined by the office, and evidence that the private  
21 aggregator has knowledge of the cable television industry.]<sup>1</sup>

22

23 7. (New section) Within 12 months of the date of enactment of  
24 P.L. , c. (C. ) (now before the Legislature as this bill) and after  
25 soliciting public testimony<sup>1</sup>, the <sup>1</sup>[office] Board of Public Utilities<sup>1</sup>  
26 shall prepare a study that examines:

27 a. The technical and regulatory issues associated with classifying  
28 every high-speed Internet service as a "telecommunications service,"  
29 as defined in section 2 of P.L.1991, c.428 (C.48:2-21.17);

30 b. A requirement that a cable television company shall provide its  
31 competitors non-discriminatory access to the CATV company's cable  
32 communications system;

33 c. The state of multi-channel video programming competition  
34 between different facilities-based and non-facilities-based<sup>1</sup>  
35 telecommunications companies in New Jersey, such as cable television  
36 companies, digital broadcast satellite companies, local exchange  
37 telecommunications companies and interexchange telecommunications  
38 carriers and, in particular, the state of competition in New Jersey  
39 among the dominant cable television companies for the same  
40 customers; and

41 d. The technical and regulatory issues associated with promoting  
42 multi-channel video programming competition in New Jersey by local  
43 exchange telecommunications companies and interexchange  
44 telecommunications carriers.

45 The study shall be transmitted to the Governor, the President of the  
46 Senate, the Speaker of the General Assembly, the Minority Leader of

1 the Senate, the Minority Leader of General Assembly, and the  
2 members of the Senate Commerce Committee and the Assembly  
3 Telecommunications and Utilities Committee, or their respective  
4 successor committees.

5  
6 <sup>1</sup>8. (New Section) a. In addition to the requirements as provided  
7 in section 26 of P.L.1972, c.186 (C.48:5A-26), the board shall, upon  
8 notice, by order in writing require every CATV company to keep for  
9 at least a period of one year, a record of complaints received at the  
10 CATV company's office, which shall include the name and address of  
11 the subscriber, the date, the nature of complaint, any corrective action  
12 taken if required, and the final disposition of the complaint. The record  
13 shall be available for inspection by the staff of the office. Copies of  
14 such record shall be provided to the staff of the office upon request.

15 b. Every CATV company shall furnish to the office annually a  
16 detailed report of the number and character of complaints made by  
17 customers and communicated to the CATV company. In meeting such  
18 requirement, the board shall establish a procedure for CATV  
19 companies to record and characterize those customer complaints using  
20 a uniform reporting methodology and containing those matters as the  
21 board may from time to time prescribe. Copies of the report shall be  
22 forwarded to the Governor and members of the Legislature. All  
23 reports submitted to the office shall comply with the provisions of the  
24 "Cable Subscriber Privacy Protection Act," P.L.1988, c.121  
25 (C.48:5A-54 et seq.).<sup>1</sup>

26  
27 <sup>1</sup>[8.] <sup>1</sup>9. This act shall take effect <sup>1</sup>[90 days] on the 120th day<sup>1</sup>  
28 following enactment, except that the provisions of <sup>1</sup>[section] sections<sup>1</sup>  
29 4 <sup>1</sup>and 5<sup>1</sup> of this act shall not apply to any certificate of approval  
30 issued before the effective date of this act <sup>1</sup>or to any application for a  
31 certificate of approval filed with the board within 365 days following  
32 the enactment date of this act,<sup>1</sup> and the <sup>1</sup>[Director of the Office of  
33 Cable Television in the]<sup>1</sup> Board of Public Utilities may take such  
34 anticipatory actions as may be necessary for the implementation of this  
35 act.

36  
37  
38  
39  
40 Concerns the provision of CATV service and telecommunications  
41 service.

**SENATE, No. 668**

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**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

---

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex)**

**Senator JOSEPH SULIGA**

**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

**Senator Buono**

**SYNOPSIS**

Concerns the provision of CATV service and telecommunications service.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/10/2002)**

S668 CODEY, SULIGA

2

1 AN ACT concerning the provision of cable television service and  
2 telecommunications service, amending R.S.40:48-1, P.L.1971,  
3 c.198, and amending and supplementing P.L.1972, c.186.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. R.S.40:48-1 is amended to read as follows:

9 40:48-1. Ordinances; general purpose. The governing body of  
10 every municipality may make, amend, repeal and enforce ordinances  
11 to:

12 Finances and property. 1. Manage, regulate and control the  
13 finances and property, real and personal, of the municipality;

14 Contracts and contractor's bonds. 2. Prescribe the form and  
15 manner of execution and approval of all contracts to be executed by  
16 the municipality and of all bonds to be given to it;

17 Officers and employees; duties, terms and salaries. 3. Prescribe  
18 and define, except as otherwise provided by law, the duties and terms  
19 of office or employment, of all officers and employees; and to  
20 provide for the employment and compensation of such officials and  
21 employees, in addition to those provided for by statute, as may be  
22 deemed necessary for the efficient conduct of the affairs of the  
23 municipality;

24 Fees. 4. Fix the fees of any officer or employee of the municipality  
25 for any service rendered in connection with his office or position, for  
26 which no specific fee or compensation is provided. In the case of  
27 salaried officers or employees, such fee shall be paid into the municipal  
28 treasury;

29 Salaries instead of fees; disposition of fees. 5. Provide that any  
30 officer or employee receiving compensation for his services, in whole  
31 or in part by fees, whether paid by the municipality or otherwise, shall  
32 be paid a salary to be fixed in the ordinance, and thereafter all fees  
33 received by such officer or employee shall be paid into the municipal  
34 treasury;

35 Maintain order. 6. Prevent vice, drunkenness and immorality; to  
36 preserve the public peace and order; to prevent and quell riots,  
37 disturbances and disorderly assemblages; to prohibit the consumption  
38 of alcoholic beverages by underage persons on private property  
39 pursuant to section 1 of P.L.2000, c.33 (C.40:48-1.2);

40 Punish beggars; prevention of loitering. 7. Restrain and punish  
41 drunkards, vagrants, mendicants and street beggars; to prevent  
42 loitering, lounging or sleeping in the streets, parks or public places;

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 Auctions and noises. 8. Regulate the ringing of bells and the  
2 crying of goods and other commodities for sale at auction or  
3 otherwise, and to prevent disturbing noises;

4 Swimming; bathing costume; prohibition of public nudity. 9.  
5 Regulate or prohibit swimming or bathing in the waters of, in, or  
6 bounding the municipality, and to regulate or prohibit persons from  
7 appearing upon the public streets, parks and places clad in bathing  
8 costumes or robes, or costumes of a similar character; regulate or  
9 prohibit persons from appearing in a state of nudity upon all lands  
10 within its borders which are under the jurisdiction of the State  
11 including, without limitation, all lands owned by, controlled by,  
12 managed by or leased by the State;

13 Prohibit annoyance of persons or animals. 10. Regulate or prohibit  
14 any practice tending to frighten animals, or to annoy or injure persons  
15 in the public streets;

16 Animals; pounds; establishment and regulation. 11. Establish and  
17 regulate one or more pounds, and to prohibit or regulate the running  
18 at large of horses, cattle, dogs, swine, goats and other animals, and to  
19 authorize their impounding and sale for the penalty incurred, and the  
20 costs of impounding, keeping and sale; to regulate or prohibit the  
21 keeping of cattle, goats or swine in any part of the municipality; to  
22 authorize the destruction of dogs running at large therein;

23 Hucksters. 12. Prescribe and regulate the place of vending or  
24 exposing for sale articles of merchandise from vehicles;

25 Building regulations; wooden structures. 13. Regulate and control  
26 the construction, erection, alteration and repair of buildings and  
27 structures of every kind within the municipality; and to prohibit,  
28 within certain limits, the construction, erection or alteration of  
29 buildings or structures of wood or other combustible material;

30 Inflammable materials; inspect docks and buildings. 14. Regulate  
31 the use, storage, sale and disposal of inflammable or combustible  
32 materials, and to provide for the protection of life and property from  
33 fire, explosions and other dangers; to provide for inspections of  
34 buildings, docks, wharves, warehouses and other places, and of goods  
35 and materials contained therein, to secure the proper enforcement of  
36 such ordinance;

37 Dangerous structures; removal or destruction; procedure. 15.  
38 Provide for the removal or destruction of any building, wall or  
39 structure which is or may become dangerous to life or health, or might  
40 tend to extend a conflagration; and to assess the cost thereof as a  
41 municipal lien against the premises;

42 Chimneys and boilers. 16. Regulate the construction and setting  
43 up of chimneys, furnaces, stoves, boilers, ovens and other contrivances  
44 in which fire is used;

45 Explosives. 17. Regulate, in conformity with the statutes of this  
46 State, the manufacture, storage, sale, keeping or conveying of

1 gunpowder, nitroglycerine, dynamite and other explosives;  
2 Firearms and fireworks. 18. Regulate and prohibit the sale and use  
3 of guns, pistols, firearms, and fireworks of all descriptions;  
4 Soft coal. 19. Regulate the use of soft coal in locomotives,  
5 factories, power houses and other places;  
6 Theatres, schools, churches and public places. 20. Regulate the  
7 use of theatres, cinema houses, public halls, schools, churches, and  
8 other places where numbers of people assemble, and the exits  
9 therefrom, so that escape therefrom may be easily and safely made in  
10 case of fire or panic; and to regulate any machinery, scenery, lights,  
11 wires and other apparatus, equipment or appliances used in all places  
12 of public amusement;  
13 Excavations. 21. Regulate excavations below the established grade  
14 or curb line of any street, not greater than eight feet, which the owner  
15 of any land may make, in the erection of any building upon his own  
16 property; and to provide for the giving of notice, in writing, of such  
17 intended excavation to any adjoining owner or owners, and that they  
18 will be required to protect and care for their several foundation walls  
19 that may be endangered by such excavation; and to provide that in  
20 case of the neglect or refusal, for 10 days, of such adjoining owner or  
21 owners to take proper action to secure and protect the foundations of  
22 any adjacent building or other structure, that the party or parties  
23 giving such notice, or their agents, contractors or employees, may  
24 enter into and upon such adjoining property and do all necessary work  
25 to make such foundations secure, and may recover the cost of such  
26 work and labor in so protecting such adjacent property; and to make  
27 such further and other provisions in relation to the proper conduct and  
28 performance of said work as the governing body or board of the  
29 municipality may deem necessary and proper;  
30 Sample medicines. 22. Regulate and prohibit the distribution,  
31 depositing or leaving on the public streets or highways, public places  
32 or private property, or at any private place or places within any such  
33 municipality, any medicine, medicinal preparation or preparations  
34 represented to cure ailments or diseases of the body or mind, or any  
35 samples thereof, or any advertisements or circulars relating thereto,  
36 but no ordinance shall prohibit a delivery of any such article to any  
37 person above the age of 12 years willing to receive the same;  
38 Boating. 23. Regulate the use of motor and other boats upon  
39 waters within or bounding the municipality;  
40 Fire escapes. 24. Provide for the erection of fire escapes on  
41 buildings in the municipality, and to provide rules and regulations  
42 concerning the construction and maintenance of the same, and for the  
43 prevention of any obstruction thereof or thereon;  
44 Care of injured employees. 25. Provide for the payment of  
45 compensation and for medical attendance to any officer or employee  
46 of the municipality injured in the performance of his duty;



1 Bulkheads and other structures. 26. Fix and determine the lines of  
2 bulkheads or other works or structures to be erected, constructed or  
3 maintained by the owners of lands facing upon any navigable water in  
4 front of their lands, and in front of or along any highway or public  
5 lands of said municipality, and to designate the materials to be used,  
6 and the type, height and dimensions thereof;

7 Lifeguard. 27. Establish, maintain, regulate and control a lifeguard  
8 upon any beach within or bordering on the municipality;

9 Appropriation for life-saving apparatus. 28. Appropriate moneys  
10 to safeguard people from drowning within its borders, by location of  
11 apparatus or conduct of educational work in harmony with the plans  
12 of the United States volunteer life-saving corps in this State;

13 Fences. 29. Regulate the size, height and dimensions of any fences  
14 between the lands of adjoining owners, whether built or erected as  
15 division or partition fences between such lands, and whether the same  
16 exist or be erected entirely or only partly upon the lands of any such  
17 adjoining owners, or along or immediately adjacent to any division or  
18 partition line of such lands. To provide, in such ordinance, the manner  
19 of securing, fastening or shoring such fences, and for surveying the  
20 land when required by statute, and to prohibit in any such ordinance  
21 the use at a height of under 10 feet from the ground, of any device,  
22 such as wire or cable, that would be dangerous to pedestrians,  
23 equestrians, bicyclists, or drivers of off-the-road vehicles, unless that  
24 device is clearly visible to pedestrians, equestrians, bicyclists or drivers  
25 of off-the-road vehicles. In the case of fences thereafter erected  
26 contrary to the provisions thereof, the governing body may provide for  
27 a penalty for the violation of such ordinance, and in the case of such  
28 fence or fences erected or existing at the time of the passage of any  
29 such ordinance, may provide therein for the removal, change or  
30 alteration thereof, so as to make such fence or fences comply with the  
31 provisions of any such ordinance;

32 Advertise municipality. 30. Appropriate funds for advertising the  
33 advantages of the municipality;

34 Government Energy Aggregation Programs. 31. Establish  
35 programs and procedures pursuant to which the municipality may act  
36 as a government aggregator pursuant to sections 40 through 45 of  
37 P.L.1999, c.23 (C.48:3-89 through C.48:3-94). Notwithstanding the  
38 provisions of any other law, rule or regulation to the contrary, a  
39 municipality acting as a government aggregator pursuant to P.L.1999,  
40 c.23 (C.48:3-49 et al.) shall not be deemed to be a public utility  
41 pursuant to R.S.40:62-24 or R.S.48:1-1 et seq. or be deemed to be  
42 operating any form of public utility service pursuant to R.S.40:62-1 et  
43 seq., to the extent such municipality is solely engaged in the provision  
44 of such aggregation service and not otherwise owning or operating any  
45 plant or facility for the production or distribution of gas, electricity,  
46 steam or other product as provided in R.S.40:62-12;

1     Hybrid fiber optic and coaxial cable telecommunications network.  
2     32. Provide for the funding, erection, installation and operation of a  
3     telecommunications network consisting of hybrid fiber optic and  
4     coaxial cables and associated equipment on existing rights of way  
5     within the municipality and regulate the operation of the network.  
6     Notwithstanding the provisions of any other law, rule or regulation to  
7     the contrary, a municipality providing for such network shall not be  
8     deemed to be a public utility pursuant to R.S.40:62-1 et seq. or  
9     R.S.48:1-1 et seq. A municipality may provide for the funding,  
10    erection, installation and operation of a telecommunications network  
11    through a contract with a private entity provided that the municipality  
12    shall adhere to the provisions of the "Local Public Contracts Law,"  
13    P.L.1971, c.198 (C.40A:11-1 et seq.);

14    Joint municipal action on consent for the provision of cable  
15    television service. 33. Establish programs and procedures pursuant  
16    to which a municipality may act together with one or more  
17    municipalities in granting municipal consent for the provision of cable  
18    television service pursuant to the provisions of the "Cable Television  
19    Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and  
20    supplemented. Notwithstanding the provisions of any other law, rule  
21    or regulation to the contrary, two or more municipalities acting jointly  
22    pursuant to the provisions of P.L.1972, c.186 shall not be deemed a  
23    public utility pursuant to R.S.48:1-1 et seq., to the extent those  
24    municipalities are solely engaged in granting municipal consent jointly  
25    and are not otherwise owning or operating any facility for the  
26    provision of cable television service as provided in P.L.1972, c.186;

27    Private cable television service aggregation programs. 34.  
28    Establish programs and procedures pursuant to which a municipality  
29    may employ the services of a private aggregator for the purpose of  
30    facilitating the joint action of two or more municipalities in granting  
31    municipal consent for the provision of cable television service  
32    provided that any such municipality shall adhere to the provisions of  
33    the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as  
34    amended and supplemented, and to the provisions of the "Local Public  
35    Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) as amended  
36    and supplemented. Notwithstanding the provisions of any other law,  
37    rule or regulation to the contrary, a municipality that employs the  
38    services of a private aggregator pursuant to the provisions of  
39    P.L.1972, c.186 shall not be deemed a public utility pursuant to  
40    R.S.48:1-1 et seq., to the extent that the municipality is solely engaged  
41    in employing the services of a private aggregator for the purpose of  
42    facilitating the joint action of two or more municipalities in granting  
43    municipal consent and is not otherwise owning or operating any  
44    facility for the provision of cable television service as provided in  
45    P.L.1972, c.186.

46    (cf: P.L.2001, c.36, s.1)

1       2. Section 10 of P.L.1971, c.198 (C.40A:11-10) is amended to  
2 read as follows:

3       10. Joint agreements for provision and performance of goods and  
4 services; cooperative marketing; authorization.

5       (a) (1) The governing bodies of two or more contracting units may  
6 provide by joint agreement for the provision and performance of goods  
7 and services for use by their respective jurisdictions.

8       (2) The governing bodies of two or more contracting units  
9 providing sewerage services pursuant to the "sewerage authorities  
10 law," P.L.1946, c.138 (C.40:14A-1 et seq.), the "municipal and county  
11 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.),  
12 R.S.58:14-1 et seq. or R.S.40:63-68 et seq. may provide by joint  
13 agreement for the purchase of goods and services related to sewage  
14 sludge disposal.

15       (3) The governing body of two or more contracting units providing  
16 electrical distribution services pursuant to and in accordance with  
17 R.S.40:62-12 through R.S.40:62-25, may provide by joint agreement  
18 for the provision or performance of goods or services related to the  
19 distribution of electricity.

20       (4) The governing bodies of two or more contracting units may  
21 provide for the cooperative marketing of recyclable materials  
22 recovered through a recycling program.

23       (5) The governing bodies of two or more contracting units may  
24 provide by joint agreement for the purchase of the services of a private  
25 aggregator for the purpose of facilitating the joint action of two or  
26 more municipalities in granting municipal consent for the provision of  
27 cable television service pursuant to R.S.40:48-1 et seq. and the "Cable  
28 Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and  
29 supplemented.

30       (b) The governing body of any contracting unit may provide by  
31 joint agreement with the board of education of any school district for  
32 the provision and performance of goods and services for use by their  
33 respective jurisdictions.

34       (c) Such agreement shall be entered into by resolution adopted by  
35 each of the participating bodies and boards, which shall set forth the  
36 categories of goods or services to be provided or performed, the  
37 manner of advertising for bids and of awarding of contracts, the  
38 method of payment by each participating body and board, and other  
39 matters deemed necessary to carry out the purposes of the agreement.

40       (d) Each participating body's and board's share of expenditures for  
41 purchases under any such agreement shall be appropriated and paid in  
42 the manner set forth in the agreement and in the same manner as for  
43 other expenses of the participating body and board.

44 (cf: P.L.1999, c.440, s.16)

1       3. Section 3 of P.L.1972, c.186 (C.48:5A-3) is amended to read as  
2 follows:

3       3. As used in this act, except as the context may otherwise clearly  
4 require or indicate:

5       a. "Board" means the Board of Public Utilities [of the Department  
6 of Energy] of this State.

7       b. "Office" means the Office of Cable Television established by this  
8 act.

9       c. "Director" means the Director of the Office of Cable Television.

10       d. "Cable television system" or "CATV system" means any facility  
11 within this State which is operated or intended to be operated to  
12 perform the service of receiving and amplifying the signals broadcast  
13 by one or more television stations and redistributing such signals by  
14 wire, cable or other device or means for accomplishing such  
15 redistribution, to members of the public who subscribe to such service,  
16 or distributing through its facility any television signals, whether  
17 broadcast or not; or any part of such facility. The term "facility" as  
18 used in this subsection includes all real property, antennae, poles,  
19 wires, cables, conduits, amplifiers, instruments, appliances, fixtures  
20 and other personal property used by a CATV company in providing  
21 service to its subscribers and customers.

22       e. "Cable television reception service" means the simultaneous  
23 delivery through a CATV system of the signals of television broadcast  
24 stations to members of the public subscribing to such service, which  
25 service may include additional nonbroadcast signals delivered as a part  
26 of the service with no additional charge.

27       f. "Cable communications system" or "cable communications  
28 service" means any communications service other than cable television  
29 reception service delivered through the facilities of a CATV system  
30 and for which charges in addition to or other than those made for cable  
31 television reception service are made or proposed to be made.

32       g. "Cable television company" or "CATV company" means any  
33 person owning, controlling, operating or managing a cable television  
34 system, and the term "person" as used herein shall be construed,  
35 without limiting the generality thereof, to include specifically any  
36 agency or instrumentality of this State or of any of its political  
37 subdivisions; but this definition shall not include a telephone, telegraph  
38 or electric utility company regulated by the Board of Public Utilities  
39 in a case where it merely leases or rents or otherwise provides to a  
40 CATV company wires, conduits, cables or pole space used in the  
41 redistribution of television signals to or toward subscribers or  
42 customers of such CATV company.

43       h. "Highway" includes every street, road, alley, thoroughfare, way  
44 or place of any kind used by the public or open to the use of the  
45 public.

46       i. "Certificate" means a certificate of approval issued, or which may

1 be issued, by the board pursuant to this act.

2 j. "Cable television service" includes the definitions of cable  
3 television reception service and cable communications service herein,  
4 as well as the provision of any other impulse or signal by a cable  
5 television company or other service lawfully provided, utilizing the  
6 facilities of the system.

7 k. "Basic cable service" means any service tier which includes the  
8 retransmission of local television broadcast signals.

9 l. "Hearing impaired individual" means an individual who, because  
10 of injury to, disease of, or defect in the inner, middle or outer ear, or  
11 any combination thereof, has suffered a loss of hearing acuity such that  
12 the individual cannot receive linguistic information without  
13 amplification, dubbing or captions.

14 m. "In series connection" means a connection where the coaxial  
15 service wire entering the residence of a subscriber connects first to a  
16 television receiver or monitor, with the television receiver or monitor  
17 being connected by coaxial wire to a video cassette recorder or other  
18 auxiliary equipment or where the coaxial service wire connects first to  
19 a video cassette recorder or auxiliary equipment, with the equipment  
20 being connected to a television receiver or monitor and where no  
21 external splitting device is used.

22 n. "Municipality" means one municipality acting singularly or two  
23 or more municipalities acting jointly in the granting of municipal  
24 consent for the provision of cable television service in accordance with  
25 the provisions of the "Cable Television Act," P.L.1972, c.186  
26 (C.48:5A-1 et seq.) as amended and supplemented.

27 o. "Open video system" means a facility consisting of a set of  
28 transmission paths and associated signal generation, reception, and  
29 control equipment that is designed to provide cable television service  
30 to multiple subscribers within a municipality and which has been  
31 certified by the Federal Communications Commission as being in  
32 compliance with Part 76 "Multichannel Video and Cable Television  
33 Service" of Title 47 of the Code of Federal Regulations.

34 p. "Private aggregator" means a duly-organized business or non-  
35 profit organization authorized to do business in this State that enters  
36 into a contract with two or more municipalities for the purpose of  
37 facilitating the joint action of those municipalities in granting municipal  
38 consent for the provision of cable television service to those  
39 municipalities.

40 (cf: P.L.1987, c.395, s.1)

41

42 4. Section 19 of P.L.1972, c.186 (C.48:5A-19) is amended to read  
43 as follows:

44 19. A certificate of approval issued by the board shall be  
45 nontransferable, except by consent of the board; shall specify the area  
46 to which it applies and the municipal consents upon which it is based,

1 and shall be valid for [15] five years from the date of issuance or 20  
2 years from the date of issuance if the board certifies that a CATV  
3 company has implemented an open video system in accordance with 47  
4 U.S.C. s.573 within one year after receiving a municipal consent, or  
5 until the expiration, revocation, termination or renegotiation of any  
6 municipal consent upon which it is based, whichever is sooner. But  
7 amendment of the terms of a municipal consent by mutual consent and  
8 in conformity with the procedures specified in this act during the term  
9 for which it was issued shall not require the issuance of a new  
10 certificate of approval. A CATV company holding a certificate based  
11 upon a municipal consent with a provision for automatic renewal for  
12 a term not exceeding [10] three years beyond its expiration date or 10  
13 years beyond its expiration date if the board certifies that the CATV  
14 company has implemented an open video system in accordance with 47  
15 U.S.C. s.573, shall be entitled to automatic reissuance of a certificate  
16 for such term, unless it shall forfeit such entitlement by violation of  
17 any terms of this act, regulations issued pursuant thereto, or by the  
18 terms of the municipal consent.

19 (cf: P.L.1972, c.186, s.19)

20

21 5. Section 25 of P.L.1972, c.186 (C.48:5A-25) is amended to read  
22 as follows:

23 25. A municipal consent issued pursuant to this act shall conform  
24 in form and substance to all requirements of this act and of rules,  
25 regulations and orders duly promulgated by the director. It shall  
26 specify with particularity the territory to which it applies, and the term  
27 for which it is issued. Such term shall not exceed [15] five years or  
28 20 years if the board certifies that a CATV company has implemented  
29 an open video system in accordance with 47 U.S.C. s.573 within one  
30 year after receiving a municipal consent; but provision may be included  
31 for automatic renewal at the expiration thereof for an additional term  
32 not exceeding [10] three years or 10 years if the board certifies that  
33 the CATV company has implemented an open video system in  
34 accordance with 47 U.S.C. s.573, unless either the municipality or the  
35 company shall not later than 60 days before the expiration of the initial  
36 term serve upon the other party notice of its intention not to accept  
37 such renewal. No CATV company whose municipal consent or  
38 renewal thereof has expired shall be authorized to continue its  
39 operations unless prior to such expiration it has obtained a certificate  
40 of approval from the board authorizing such continued operation,  
41 except that such a CATV company which has initiated proceedings to  
42 obtain such certification from the board prior to the expiration of the  
43 municipal consent may continue its operations pending the final  
44 disposition of such proceedings.

45 (cf: P.L.1972, c.186, s.25)

46 6. (New section) a. A private aggregator may enter into a

1 contract with two or more municipalities for the purpose of facilitating  
2 the joint action of those municipalities in granting municipal consent  
3 for the provision of cable television service, pursuant to the "Cable  
4 Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and  
5 supplemented, subject to the requirements of the "Local Public  
6 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

7 b. A private aggregator shall register with the office, which shall  
8 include the filing of basic information pertaining to the aggregator,  
9 such as name, address, telephone number, business or organization  
10 background, and business or organization profile. A private  
11 aggregator shall provide annual updates of this information to the  
12 office. The registration shall also include evidence of financial  
13 integrity, as determined by the office, and evidence that the private  
14 aggregator has knowledge of the cable television industry.

15  
16 7. (New section) Within 12 months of the date of enactment of  
17 P.L. , c. (C. ) (now before the Legislature as this bill), the office  
18 shall prepare a study that examines:

19 a. The technical and regulatory issues associated with classifying  
20 every high-speed Internet service as a "telecommunications service,"  
21 as defined in section 2 of P.L.1991, c.428 (C.48:2-21.17);

22 b. A requirement that a cable television company shall provide its  
23 competitors non-discriminatory access to the CATV company's cable  
24 communications system;

25 c. The state of multi-channel video programming competition  
26 between different facilities-based telecommunications companies in  
27 New Jersey, such as cable television companies, digital broadcast  
28 satellite companies, local exchange telecommunications companies and  
29 interexchange telecommunications carriers and, in particular, the state  
30 of competition in New Jersey among the dominant cable television  
31 companies for the same customers; and

32 d. The technical and regulatory issues associated with promoting  
33 multi-channel video programming competition in New Jersey by local  
34 exchange telecommunications companies and interexchange  
35 telecommunications carriers.

36 The study shall be transmitted to the Governor, the President of the  
37 Senate, the Speaker of the General Assembly, the Minority Leader of  
38 the Senate, the Minority Leader of General Assembly, and the  
39 members of the Senate Commerce Committee and the Assembly  
40 Telecommunications and Utilities Committee, or their respective  
41 successor committees.

42  
43 8. This act shall take effect 90 days following enactment, except  
44 that the provisions of section 4 of this act shall not apply to any  
45 certificate of approval issued before the effective date of this act and  
46 the Director of the Office of Cable Television in the Board of Public

1 Utilities may take such anticipatory actions as may be necessary for the  
2 implementation of this act.

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4

5

STATEMENT

6

7 This bill authorizes a municipality to provide for the funding,  
8 erection, installation and operation of a hybrid fiber optic and coaxial  
9 cable telecommunications network on existing rights of way within the  
10 municipality, and to regulate the operation of the network. A  
11 municipality may provide for the funding, erection, installation and  
12 operation of a hybrid fiber optic and coaxial cable telecommunications  
13 network through a contract with a private entity provided that the  
14 municipality adheres to the provisions of the "Local Public Contracts  
15 Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

16 The intent of this provision of the bill is that, once a network is in  
17 operation, a municipality would be able to lease access to the network  
18 to private companies in order to offer to residents and businesses high  
19 quality and competitively priced cable television and  
20 telecommunications services, such as video programming, local  
21 telephone, data transmission and high-speed Internet access. A  
22 municipality could then require those private companies to pay access  
23 fees for the use of the network, where such fees would then be used  
24 to finance the cost of operating the network.

25 In addition, the bill authorizes a two or more municipalities to: 1)  
26 act jointly in granting municipal consent for the provision of cable  
27 television service within the municipalities' respective territorial  
28 jurisdictions pursuant to the provisions of the "Cable Television Act,"  
29 P.L.1972, c.186 (C.48:5A-1 et seq.); or 2) establish programs and  
30 procedures pursuant to which a municipality may employ the services  
31 of a private aggregator for the purpose of facilitating the joint action  
32 of two or more municipalities in granting municipal consent for the  
33 provision of cable television service, provided that those municipalities  
34 adhere to the provisions of the "Cable Television Act" and to the  
35 provisions of the "Local Public Contracts Law," P.L.1971, c.198  
36 (C.40A:11-1 et seq.).

37 The bill requires a private aggregator to register with the Office of  
38 Cable Television in the Board of Public Utilities ("office"), which shall  
39 include the filing of basic information pertaining to the aggregator,  
40 such as name, address, telephone number, business or organization  
41 background, and business or organization profile. A private  
42 aggregator shall provide annual updates of this information to the  
43 office. The registration shall also include evidence of financial  
44 integrity, as determined by the office, and evidence that the private  
45 aggregator has knowledge of the cable television industry.

46 The bill reduces the length of the maximum term of a cable



1 television franchise agreement between a municipality and cable  
2 television company from 15 years to five years and reduces the length  
3 of the maximum term of automatic renewal of such agreement from  
4 five years to three years, except that for such agreements involving a  
5 cable television company that has implemented an open video system  
6 within one year of receiving municipal consent, the maximum term of  
7 the agreement is 20 years with an automatic renewal term of 10 years.

8 Further, the bill requires the office to prepare a study within 12  
9 months of the date of enactment of the bill that examines:

10 a. The technical and regulatory issues associated with classifying  
11 every high-speed Internet service as a "telecommunications service"  
12 that is regulated by the Board of Public Utilities;

13 b. A requirement that a cable television company must provide its  
14 competitors non-discriminatory access to the CATV company's cable  
15 communications system;

16 c. The state of multi-channel video programming competition  
17 between different facilities-based telecommunications companies in  
18 New Jersey, such as cable television companies, digital broadcast  
19 satellite companies, local exchange telecommunications companies and  
20 interexchange telecommunications carriers and, in particular, the state  
21 of competition in New Jersey among the dominant cable television  
22 companies for the same customers; and

23 d. The technical and regulatory issues associated with promoting  
24 multi-channel video programming competition in New Jersey by local  
25 exchange telecommunications companies and interexchange  
26 telecommunications carriers.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES  
COMMITTEE

STATEMENT TO

[First Reprint]  
**SENATE, No. 668**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 3, 2003

The Assembly Telecommunications and Utilities Committee reports favorably Senate Bill No. 668 (1R).

As reported, this bill: (1) authorizes municipalities to join together with other municipalities in granting consent for the provision of cable television service and to employ private aggregators to act on behalf of two or more municipalities in granting municipal consent for the provision of cable television service; (2) provides an incentive to cable television companies to open their cable to use by video programming providers; (3) requires the Board of Public Utilities to prepare a study on various aspects of the cable television industry; and (4) establishes a procedure for recording and reporting consumer complaints received by cable television companies.

The bill authorizes:

(1) two or more municipalities to act jointly in granting municipal consent for the provision of cable television service within the municipalities' respective territorial jurisdictions pursuant to the provisions of the "Cable Television Act;"

(2) two or more municipalities to employ the services of a private aggregator for the purpose of facilitating the joint action of two or more municipalities in granting municipal consent for the provision of cable television service, provided that those municipalities adhere to the provisions of the "Cable Television Act" and to the provisions of the "Local Public Contracts Law."

The bill requires a private aggregator to register with the Office of Cable Television in the Board of Public Utilities, which shall include the filing of basic information pertaining to the aggregator, such as name, address, telephone number, business or organization background, and business or organization profile.

If a cable television company has implemented an open video system, the bill increases the maximum term of a cable television franchise agreement between a municipality and cable television company from 15 years to 20 years and increases the maximum term of automatic renewal of such agreement from 10 years to 15 years.

Further, the bill requires the Board of Public Utilities to prepare a study within 12 months of the date of enactment of the bill that examines:

(1) The technical and regulatory issues associated with classifying every high-speed Internet service as a "telecommunications service" that is regulated by the Board of Public Utilities;

(2) A requirement that a cable television company must provide its competitors non-discriminatory access to the cable television company's cable communications system;

(3) The state of multi-channel video programming competition between different facilities-based and non-facilities-based telecommunications companies in New Jersey, such as cable television companies, digital broadcast satellite companies, local exchange telecommunications companies and interexchange telecommunications carriers and, in particular, the state of competition in New Jersey among the dominant cable television companies for the same customers; and

(4) The technical and regulatory issues associated with promoting multi-channel video programming competition in New Jersey by local exchange telecommunications companies and interexchange telecommunications carriers.

Finally, the bill provides that the Board of Public Utilities shall, upon notice, by order in writing, require every cable television company to keep for at least a period of one year, a record of complaints received at the company's office, which shall include the name and address of the subscriber, the date, the nature of complaint, any corrective action taken if required, and the final disposition of the complaint. The record shall be available for inspection by the staff of the Office of Cable Television in the board. Copies of such record shall be provided to the staff of the office upon request. The bill requires every cable television company to furnish annually to the office a detailed report of the number and character of complaints made by customers and communicated to the company. In meeting such requirement, the board must establish a procedure for cable television companies to record and characterize such customer complaints using a uniform reporting methodology and containing such matters as the board may from time to time prescribe. All reports submitted to the office shall comply with the provisions of the "Cable Subscriber Privacy Protection Act," P.L.1988, c.121 (C.48:5A-54 et seq.). The bill also provides that the board shall forward copies of the report to the Governor and the members of the Legislature.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 668**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 20, 2002

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 668.

This bill, as amended by the committee: (1) authorizes municipalities to join together with other municipalities in granting consent for the provision of cable television service and to employ private aggregators to act on behalf of two or more municipalities in granting municipal consent for the provision of cable television service; (2) provides an incentive to cable television companies to open their cable to use by video programming providers; (3) requires the Board of Public Utilities to prepare a study on various aspects of the cable television industry; and (4) establishes a procedure for recording and reporting consumer complaints received by cable television companies.

The bill authorizes:

(1) two or more municipalities to act jointly in granting municipal consent for the provision of cable television service within the municipalities' respective territorial jurisdictions pursuant to the provisions of the "Cable Television Act;"

(2) two or more municipalities to employ the services of a private aggregator for the purpose of facilitating the joint action of two or more municipalities in granting municipal consent for the provision of cable television service, provided that those municipalities adhere to the provisions of the "Cable Television Act" and to the provisions of the "Local Public Contracts Law."

The bill requires a private aggregator to register with the Office of Cable Television in the Board of Public Utilities, which shall include the filing of basic information pertaining to the aggregator, such as name, address, telephone number, business or organization background, and business or organization profile.

If a cable television company has implemented an open video system, the bill increases the maximum term of a cable television franchise agreement between a municipality and cable television company from 15 years to 20 years and increases the maximum term of automatic renewal of such agreement from 10 years to 15 years.

Further, the bill requires the Board of Public Utilities to prepare a study within 12 months of the date of enactment of the bill that examines:

(1) The technical and regulatory issues associated with classifying every high-speed Internet service as a "telecommunications service" that is regulated by the Board of Public Utilities;

(2) A requirement that a cable television company must provide its competitors non-discriminatory access to the cable television company's cable communications system;

(3) The state of multi-channel video programming competition between different facilities-based and non-facilities-based telecommunications companies in New Jersey, such as cable television companies, digital broadcast satellite companies, local exchange telecommunications companies and interexchange telecommunications carriers and, in particular, the state of competition in New Jersey among the dominant cable television companies for the same customers; and

(4) The technical and regulatory issues associated with promoting multi-channel video programming competition in New Jersey by local exchange telecommunications companies and interexchange telecommunications carriers.

Finally, the bill provides that the Board of Public Utilities shall, upon notice, by order in writing, require every cable television company to keep for at least a period of one year, a record of complaints received at the company's office, which shall include the name and address of the subscriber, the date, the nature of complaint, any corrective action taken if required, and the final disposition of the complaint. The record shall be available for inspection by the staff of the Office of Cable Television in the board. Copies of such record shall be provided to the staff of the office upon request. The bill requires every cable television company to furnish annually to the office a detailed report of the number and character of complaints made by customers and communicated to the company. In meeting such requirement, the board must establish a procedure for cable television companies to record and characterize such customer complaints using a uniform reporting methodology and containing such matters as the board may from time to time prescribe. All reports submitted to the office shall comply with the provisions of the "Cable Subscriber Privacy Protection Act," P.L.1988, c.121 (C.48:5A-54 et seq.). The bill also provides that the board shall forward copies of the report to the Governor and the members of the Legislature.

The committee amendments: delete the provision that authorized municipalities to own and operate their own cable television service system; increase the allowable maximum initial and renewal terms of a cable television franchise if the company implements an open video system; provide that a private aggregator is not required to show evidence of financial integrity; provide that cable television companies must keep records of complaints and compile them and send them to

the Office of Cable Television; and provide that the bill is effective on the 120th day and that sections 4 and 5 of the bill do not apply to any application for a certificate of approval filed with the board within 365 days following the enactment of the bill.

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**Press Releases**

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Contact: Micah Rasmussen  
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RELEASE: April 14, 2003

[Previous Screen](#)

### **McGreevey Signs Cable Bill Protecting New Jersey Consumers**

(TRENTON)- Continuing his commitment to New Jersey consumers, Governor James E. McGreevey today signed into law legislation that will reform certain aspects of cable television in the state. McGreevey was joined by legislative sponsors Senate President Richard J. Codey and Senator Joseph Suliga.

“Cable television keeps us plugged in,” said McGreevey. “This legislation is just another step in our comprehensive efforts to help New Jersey’s consumers when it comes to cable service, technology and costs.”

The legislation will allow municipalities to increase their negotiating power by joining together to negotiate terms of service from a cable provider.

“This bill encourages both competitive cable choices and technology advancement,” said McGreevey. “It creates incentives for towns to negotiate with cable providers to give better services to New Jersey’s consumers. This legislation will also reduce duplication of efforts. By allowing towns to band together and pool resources, we are helping municipalities save money and control cable costs for their residents.”

"Deregulation of the cable industry by Congress has left New Jersey consumers at the mercy of a cable mega-monopoly," said Democratic Senate President Richard J. Codey. "This law will put power back in the hands of consumers by instilling safeguards against rampant anti-competitive practices. Today we're telling cable providers to 'tune-in' to New Jersey residents."

"This law goes a long way toward removing the stronghold cable companies have had on New Jersey consumers for years," said Senator Joseph Suliga. "Under this law, municipalities will gain greater negotiating power and cable consumers will gain lower rates through increased competition. New Jersey residents have paid through the nose too long for cable services that reek of a monopoly."

The legislation also calls for the Board of Public Utilities to study the state of competition in New Jersey between cable providers, as well as the competition provided by satellite

companies. The BPU will look at cost effective and consumer-friendly ways to better provide cable services.

“Today’s bill signing is a major step toward improving service for the cable customers,” said New Jersey Board of Public Utilities President Jeanne M. Fox. “The Governor, Senate President Codey and Senator Suliga are on the front line ensuring quality service and options for cable customers in New Jersey. The BPU will continue to advocate for consumer protection and quality service in the cable industry. We will work quickly to implement this new law and work with municipalities using the new tools it gives them and the Board in their dealings with cable companies.”

The legislation also allows for the extension of broadband capabilities to homes, schools, libraries and local government. “We want consumers to have high-speed internet services - as well as any other technological convenience - available at their fingertips. This bill makes that possible,” said McGreevey.

“Governor McGreevey, along with the sponsors of this legislation, are to be commended for continuing to place a strong emphasis on customer concerns, and initiating a structured process for resolving and maintaining records on customer complaints to safeguard New Jersey residents from unreasonable cable service,” said Ratepayer Advocate Seema M. Singh. “Municipalities are key to the future of cable and telecommunications services in New Jersey. We must ensure that consumer friendly cable service is available to the people of New Jersey.”

In January, Governor McGreevey proposed regulations to improve the overall quality of customer service to New Jersey’s 2.5 million cable subscribers. Over the past nine years, the Board of Public Utilities has recovered over \$191 million for subscribers statewide in rate relief. This includes nearly \$33 million in refunds. Under the leadership of President Jeanne Fox, the BPU has assisted 305 towns in New Jersey who have negotiated to offer a senior citizens discount for cable television, sometimes as high as 15%.

Over the past year, the McGreevey Administration has been proactive in its efforts to fight for New Jersey’s consumers, particularly with its proposal to overhaul the Division of Motor Vehicles to make the agency more customer-friendly.

The Attorney General’s office filed lawsuits against major corporate defendants that were responsible for more than \$150 million in losses to the State pension system. The State has also filed suits against dozens of individuals and companies that have engaged in fraudulent, unethical behaviors ranging from elder fraud to auto repair fraud.

The Governor has also held a series of educational seminars with the AARP focusing on consumer issues such as the affordable utilities, creating strong predatory lending laws, and establishing the strongest “do not call list” in the nation.

