

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1402

91ST GENERAL ASSEMBLY

Reported from the Committee on Commerce and Environment, April 25, 2002, with recommendation that the Senate Committee Substitute do pass.

3417S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 392.410, RSMo, and to enact in lieu thereof two new sections relating to the rights of a political subdivision to use their telecommunications services or facilities.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 392.410, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 71.970 and 392.410, to read as follows:

71.970. Municipalities may own and operate cable television facilities on a nondiscriminatory, competitively-neutral basis, and at a price which covers costs, including imputed costs that the political subdivision would incur if it were a for-profit business. No municipality may own or operate cable television facilities and services unless approved by a vote of the people. This section shall apply only to municipalities that acquire or construct cable television facilities and services after August 28, 2002.

392.410. 1. A telecommunications company not possessing a certificate of public convenience and necessity from the commission at the time this section goes into effect shall have not more than ninety days in which to apply for a certificate of service authority from the commission pursuant to this chapter unless a company holds a state charter issued in or prior to the year 1913 which charter authorizes a company to engage in the telephone business. No telecommunications company not exempt from this subsection shall transact any business in this state until it shall have obtained a certificate of service authority from the commission pursuant to the provisions of this chapter, except that any telecommunications company which is providing

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

10 telecommunications service on September 28, 1987, and which has not been granted or
11 denied a certificate of public convenience and necessity prior to September 28, 1987, may
12 continue to provide that service exempt from all other requirements of this chapter until
13 a certificate of service authority is granted or denied by the commission so long as the
14 telecommunications company applies for a certificate of service authority within ninety
15 days from September 28, 1987.

16 2. No telecommunications company offering or providing, or seeking to offer or
17 provide, any interexchange telecommunications service shall do so until it has applied
18 for and received a certificate of interexchange service authority pursuant to the
19 provisions of subsection 1 of this section. No telecommunications company offering or
20 providing, or seeking to offer or provide, any local exchange telecommunications service
21 shall do so until it has applied for and received a certificate of local exchange service
22 authority pursuant to the provisions of section 392.420.

23 3. No certificate of service authority issued by the commission shall be construed
24 as granting a monopoly or exclusive privilege, immunity or franchise. The issuance of
25 a certificate of service authority to any telecommunications company shall not preclude
26 the commission from issuing additional certificates of service authority to another
27 telecommunications company providing the same or equivalent service or serving the
28 same geographical area or customers as any previously certified company, except to the
29 extent otherwise provided by section 392.450.

30 4. Any certificate of public convenience and necessity granted by the commission
31 to a telecommunications company prior to September 28, 1987, shall remain in full force
32 and effect unless modified by the commission, and such companies need not apply for a
33 certificate of service authority in order to continue offering or providing service to the
34 extent authorized in such certificate of public convenience and necessity. Any such
35 carrier, however, prior to substantially altering the nature or scope of services provided
36 under a certificate of public convenience and necessity, or adding or expanding services
37 beyond the authority contained in such certificate, shall apply for a certificate of service
38 authority for such alterations or additions pursuant to the provisions of this section.

39 5. The commission may review and modify the terms of any certificate of public
40 convenience and necessity issued to a telecommunications company prior to September
41 28, 1987, in order to ensure its conformity with the requirements and policies of this
42 chapter. Any certificate of service authority may be altered or modified by the
43 commission after notice and hearing, upon its own motion or upon application of the
44 person or company affected. Unless exercised within a period of one year from the
45 issuance thereof, authority conferred by a certificate of service authority or a certificate

46 of public convenience and necessity shall be null and void.

47 6. The commission may issue a temporary certificate which shall remain in force
48 not to exceed one year to assure maintenance of adequate service or to serve particular
49 customers, without notice and hearing, pending the determination of an application for
50 a certificate.

51 7. No political subdivision of this state shall provide or offer for sale, either to
52 the public or to a telecommunications provider, a telecommunications service or
53 telecommunications facility used to provide a telecommunications service for which a
54 certificate of service authority is required pursuant to this section. Nothing in this
55 subsection shall be construed to restrict a political subdivision from allowing the
56 nondiscriminatory use of its rights-of-way including its poles, conduits, ducts and similar
57 support structures by telecommunications providers or from providing to
58 **telecommunications providers, within the geographic area of the political**
59 **subdivision and any additional geographic areas in which it lawfully operates**
60 **as a municipal utility, telecommunications services or telecommunications**
61 **facilities on a nondiscriminatory, competitively-neutral basis, and at a price**
62 **which covers cost, including imputed costs that the political subdivision**
63 **would incur if it were a for-profit business. Nothing in this subsection shall**
64 **restrict a political subdivision from providing** telecommunications services or
65 facilities:

- 66 (1) For its own use;
67 (2) For 911, E-911 or other emergency services;
68 (3) For medical or educational purposes;
69 (4) To students by an educational institution; or
70 (5) Internet-type services.

71 [The provisions of this subsection shall expire on August 28, 2002.]

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