

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1068
Commerce, Small Business and Entrepreneurship Committee Substitute Adopted
5/14/07
Appropriations/Base Budget Committee Substitute Adopted 7/12/07

Short Title: E-NC Internet Connectivity/PEG Channel.

(Public)

Sponsors:

Referred to:

March 21, 2007

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE SUNSET ON THE E-NC AUTHORITY, TO INCREASE THE DISTRIBUTION TO LOCAL GOVERNMENTS OF THE SALES TAX ON TELECOMMUNICATIONS AND VIDEO PROGRAMMING SERVICES AND TO EARMARK A PORTION OF THE STATE'S SHARE OF THE SALES TAX ON THESE SERVICES FOR GRANTS FOR BROADBAND CONNECTIVITY, PEG CHANNELS, AND COMMUNITY MEDIA CENTERS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2003-425, as rewritten by Section 12.3(a) of S.L. 2006-66, reads as rewritten:

"SECTION 4. Sections 1 and 2 of this act become effective December 31, 2003, with the e-NC Authority hereby designated as the successor entity of the Rural Internet Access Authority that will dissolve on that date, as provided by Section 5 of S.L. 2000-149. The remainder of this act is effective when it becomes law. ~~The e-NC Authority created in this act is dissolved effective December 31, 2011. This act is repealed effective December 31, 2011. Part 2F of Article 10 of Chapter 143B of the General Statutes and G.S. 120-123(77), as enacted by this act, are repealed effective December 31, 2011.~~"

SECTION 2. G.S. 143B-437.45 reads as rewritten:

"§ 143B-437.45. Definitions.

The following definitions apply in this Part:

(1) Account. – The Public Access Account.

~~(1)~~(2) Authority. – The e-NC Authority.

~~(2)~~(3) Commission. – The governing body of the Authority.

(4) Community Media Center (CMC). – A facility in which a community commonly creates or coordinates the operation of public, education, or government access channels and provides digital media training, video

1 production, and economic development opportunities for the
2 community as a whole.

3 ~~(3)~~(5) Distressed urban areas. – Areas where at least one of the following
4 requirements is met: (i) more than ten percent (10%) of children
5 enrolled in public schools meet the requirements for the Food Stamp
6 Program of the United States Department of Agriculture, (ii) ten
7 percent (10%) of the citizens meet the TANF guidelines of the United
8 States Department of Health and Human Services, or (iii) twenty-five
9 percent (25%) of the children in the public school district meet the
10 requirements for a federal government-sponsored free lunch.

11 ~~(4)~~(6) High-speed broadband Internet access. – Internet access with
12 transmission speeds that are consistent with requirements for
13 high-speed broadband Internet access as defined by the Federal
14 Communications Commission from time to time.

15 (7) PEG channel. – Defined in G.S. 66-350.

16 ~~(5)~~(8) Regional Partnerships. – ~~As defined~~ Defined in G.S. 143B-437.21(6).

17 ~~(6)~~(9) Rural county. – A county with a density of fewer than 250 people per
18 square mile based on the 2000 United States decennial census."

19 **SECTION 3.** G.S. 143B-437.46(a) reads as rewritten:

20 "(a) Creation. – The e-NC Authority is created within the Department of
21 Commerce for organizational and budgetary purposes only, and the Commission shall
22 exercise all of its statutory authority under this Part independent of the control of the
23 Department of Commerce. The functions of the Secretary of Commerce are ministerial
24 and shall be performed only pursuant to the direction and policy of the Commission.

25 The purpose of the Authority is to manage, oversee, promote, and monitor efforts to
26 provide rural counties and distressed urban areas with high-speed broadband Internet
27 ~~access.~~ access and to administer the grants for the PEG channels and CMCs. The
28 Authority shall also serve as the central rural and urban distressed areas Internet access
29 policy planning body of the State and shall communicate and coordinate with federal,
30 State, regional, and local agencies and private entities in order to continue the
31 development and facilitation of a coordinated Internet access policy for the citizens of
32 North Carolina."

33 **SECTION 4.** G.S. 143B-437.47(e) reads as rewritten:

34 "(e) Reports. – The Authority shall submit quarterly reports to the Governor, the
35 Joint Legislative Oversight Committee on Information Technology, and the Joint
36 Legislative Commission on Governmental Operations. The reports shall summarize the
37 Authority's activities during the quarter and contain any information about the
38 Authority's activities that is requested by the Governor, the Committee, or the
39 Commission.

40 The Authority shall publish an annual report on grants awarded under this Part. The
41 report must list each grant applicant, the amount of the grant, and the purpose of the
42 grant. The Authority shall report every two years on the development of high-speed
43 broadband access in rural counties and distressed urban areas and on the development of
44 PEG channels through CMCs."

1 SECTION 5. G.S. 66-359 is recodified as G.S. 143B-437.48 and reads as
2 rewritten:

3 **"§ 143B-437.48. ~~PEG channel grants.~~Public Access Account.**

4 (a) ~~PEG Channel Fund.~~Public Access Account. – The ~~PEG Channel Fund~~Public
5 Access Account is created as ~~an interest-bearing special revenue fund.~~ It consists of
6 ~~revenue allocated to it under G.S. 105-164.44I(b) and any other revenues appropriated~~
7 ~~to it. The e-NC Authority, created under G.S. 143B-437.46, administers the Fund.~~
8 within the Department of Commerce. The Authority administers the Account. The
9 Account provides revenue for grants for broadband connectivity, PEG channels, and
10 CMCs in accordance with criteria established by the Authority. Revenue in the Account
11 does not revert at the end of the fiscal year. The Account consists of the following:

12 (1) Gifts and grants.

13 (2) Appropriations by the General Assembly.

14 (3) Reserved.

15 (b) Use. – The Authority may use the revenue in the Account only as follows:

16 (1) Up to four percent (4%) annually of the available funds to cover the
17 Authority's expenses in grant letting and monitoring.

18 (2) Up to fifty percent (50%) of the remaining revenue to award
19 broadband connectivity competitive incentive grants to private sector
20 providers of broadband service or to public/private partnerships so that
21 at least seventy percent (70%) of the households in each county have
22 the ability to access broadband services by 2011. A grant recipient
23 must match a grant on a cash basis in an amount equal to at least fifty
24 percent (50%) of the grant. A grant recipient must specify the number
25 of additional households to be served as a result of the grant.

26 (3) The remaining revenue to award grants to establish, operate, and
27 support PEG channels and CMCs.

28 (c) ~~Grants.~~Grants for PEG Channels and CMCs. – ~~A county or city may apply to~~
29 ~~the e-NC Authority for a grant from the PEG Channel Fund.~~ Municipalities, counties,
30 and educational, nonprofit, or public institutions may apply directly to the Account for
31 PEG channel and CMC grants. In awarding grants from the ~~Fund,~~Account, the e-NC
32 Authority must, to the extent possible, select applicants from all parts of the State based
33 upon need. Grants from the Fund are subject to the following limitations:

34 (1) ~~The grant~~A grant for a PEG channel may not exceed twenty-five
35 ~~thousand dollars (\$25,000).~~fifty thousand dollars (\$50,000), and a
36 grant for a CMC may not exceed two hundred fifty thousand dollars
37 (\$250,000).

38 (2) ~~The applicant must match the grant on a dollar for dollar basis.~~

39 (3) ~~The grant may be used only for capital expenditures necessary to~~
40 ~~provide PEG channel programming.~~No more than fifty percent (50%)
41 of a grant may be used for operating costs.

42 (4) An applicant may receive no more than one grant per fiscal year.

1 (e) Reports.—~~The e-NC Authority must publish an annual report on grants~~
2 ~~awarded under this section. The report must list each grant recipient, the amount of the~~
3 ~~grant, and the purpose of the grant.~~

4 (d) Grants for Broadband. – Municipalities, counties, and educational, nonprofit,
5 for-profit, or public institutions may apply directly for broadband connectivity
6 competitive incentive grants. Broadband grants are subject to contracts and procedures
7 of the e-NC Authority, but must be granted first to providers who would serve counties
8 with less than fifty percent (50%) access to high-speed Internet, then seventy percent
9 (70%) until the State reaches at least ninety-five percent (95%) access from homes and
10 businesses to high-speed Internet."

11 **SECTION 6.** G.S. 105-164.44F(a)(2) reads as rewritten:

12 "(a) Amount. – The Secretary must distribute part of the taxes imposed by
13 G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The
14 Secretary must make the distribution within 75 days after the end of each calendar
15 quarter. The amount the Secretary must distribute is the following percentages of the net
16 proceeds of the taxes collected during the quarter:

17 ...

18 (2) ~~Eight percent (8%)~~ Eight and six-tenths percent (8.6%) must be
19 distributed to counties and cities as provided in G.S. 105-164.44I."

20 **SECTION 7.** G.S. 105-164.44I(a) reads as rewritten:

21 "(a) Distribution. – The Secretary must distribute to the counties and cities part of
22 the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and
23 G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the
24 distribution within 75 days after the end of each calendar quarter. The amount the
25 Secretary must distribute is the sum of the revenue listed in this subsection. The
26 Secretary must distribute ~~two million dollars (\$2,000,000)~~ seven million dollars
27 (\$7,000,000) of this amount in accordance with subsection (b) of this section and the
28 remainder in accordance with subsections (c) and (d) of this section. The revenue to be
29 distributed under this section consists of the following:

30 (1) The amount specified in G.S. 105-164.44F(a)(2).

31 (2) ~~Twenty five percent (25%)~~ Twenty-six and nine-tenths percent
32 (26.9%) of the net proceeds of the taxes collected during the quarter on
33 video programming, other than on direct-to-home satellite service.

34 (3) ~~Thirty-seven and five tenths percent (37.5%)~~ Forty and four-tenths
35 percent (40.4%) of the net proceeds of the taxes collected during the
36 quarter on direct-to-home satellite service."

37 **SECTION 8.** G.S. 105-164.44I(b) reads as rewritten:

38 "(b) Supplemental PEG Support. – The Secretary must include the applicable
39 amount of supplemental PEG channel support in each quarterly distribution to a county
40 or city. The amount to include is one-fourth of twenty-five thousand dollars (\$25,000)
41 for each qualifying PEG channel operated by the county or city. The amount of money
42 distributed under this subsection may not exceed ~~two million dollars (\$2,000,000)~~ seven
43 million dollars (\$7,000,000) in a fiscal year. If the amount to be distributed for
44 qualifying PEG channels in a fiscal year would otherwise exceed this maximum

1 amount, the Secretary must proportionately reduce the applicable amount distributable
2 for each PEG channel. If the amount to be distributed for qualifying PEG channels in a
3 fiscal year is less than ~~two million dollars (\$2,000,000)~~, seven million dollars
4 (\$7,000,000), the Secretary must credit the excess amount to the ~~PEG Channel Fund~~
5 ~~established in G.S. 66-359~~. Public Access Account established in G.S. 143B-437.48.

6 A county or city must certify to the Secretary by July 15 of each year the number of
7 qualifying PEG channels it operates. A qualifying PEG channel is one that meets the
8 programming requirements under G.S. 66-357(d). A county or city may not receive
9 PEG channel support under this subsection for more than three qualifying PEG
10 channels.

11 The amount included under this subsection in a distribution to a county or city is
12 intended to supplement the PEG channel support available in the amount distributed
13 under this section. The money distributed to a county or city under this subsection must
14 be used by it for the operation and support of PEG channels. For purposes of this
15 subsection, the term "PEG channel" has the same meaning as in G.S. 66-350."

16 **SECTION 9.** Article 5 of Chapter 105 of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 105-164.44J. Distribution of part of State share of sales tax on video**
19 **programming service and telecommunications service to Public Access**
20 **Account.**

21 (a) Distribution. – The State's share of the revenue imposed on
22 telecommunications service under G.S. 105-164.4(a)(4c) and on video programming
23 service under G.S. 105-164.4(a)(6) is the amount that is not distributed to counties and
24 cities under G.S. 105-164.44F and G.S. 105-164.44I. The Secretary must transfer part of
25 the State's share to the Public Access Account established in G.S. 143B-437.48 on a
26 quarterly basis. The Secretary must make the transfer within 75 days after the end of
27 each calendar quarter. The amount the Secretary must transfer is the amount by which
28 the State's share for the quarter exceeds the amount of the State's share for the same
29 quarter in fiscal year 2008-2009. The amount transferred may not exceed two million
30 five hundred thousand dollars (\$2,500,000) per quarter.

31 (b) Sunset. – This section is repealed July 1, 2017, and does not apply to
32 distributions for months beginning on or after that date."

33 **SECTION 10.** G.S. 143B-437.48(a), as amended by this act, reads as
34 rewritten:

35 "(a) Public Access Account. – The Public Access Account is created within the
36 Department of Commerce. The Authority administers the Account. The Account
37 provides revenue for grants for broadband connectivity, PEG channels, and CMCs in
38 accordance with criteria established by the Authority. Revenue in the Account does not
39 revert at the end of the fiscal year. The Account consists of the following:

- 40 (1) Gifts and grants.
- 41 (2) Appropriations by the General Assembly.
- 42 (3) ~~Reserved~~. Revenue credited under G.S. 105-164.44J."

43 **SECTION 11.** This act becomes effective July 1, 2009, and applies to
44 distributions for months beginning on or after that date.