

WORKING DRAFT

SENATE FILE NO. _____

Telecommunications-exclusive contracts.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to telecommunications; prohibiting
2 political subdivisions from entering exclusive
3 telecommunications services contracts; providing
4 exceptions; providing for a complaint process; and
5 providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 37-15-413 is created to read:

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11 **37-15-413. Limitation on authority of political**
12 **subdivision to enter exclusive agreement for provision of**
13 **telecommunications service.**

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1 (a) Except as provided in subsections (b), (c) and (d)
2 of this section, no governing body of any city or town or
3 other political subdivision of this state, shall provide
4 for the construction, maintenance or operation of any
5 telecommunications service by entering into an exclusive
6 franchise, partnership, joint venture, contract, resale
7 agreement or any other agreement with any party.

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9 (b) Nothing in this section shall be construed to
10 restrict the governing body of a city or town or other
11 political subdivision, from allowing the nondiscriminatory
12 use of its rights-of-way including its poles, conduits,
13 ducts or similar support structures by a telecommunications
14 company.

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16 (c) Nothing in this section shall restrict the
17 governing body of a city or town, or other political
18 subdivision, from providing a telecommunications service or
19 facility:

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21 (i) For its own use;

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23 (ii) For 911, E-911 or other emergency services;

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1 (iii) For medical or educational purposes; or

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3 (iv) To students by an educational institution.

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5 **** Staff note: It is unclear whether educational**
6 **institutions are covered under this statute, and if**
7 **not, why a local governmental agency would be**
8 **providing telecommunications for the educational**
9 **institution. ****

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11 (d) Nothing in this section shall be construed to
12 restrict the governing body of a city or town or other
13 political subdivision, from providing a telecommunications
14 service to a party within the geographic area in which the
15 city, town or political subdivision operates as a utility.

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17 **** Staff note: Is this supposed to be limited to**
18 **telecommunications utilities or any utility? ****

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20 Any city, town or political subdivision providing a
21 telecommunications service under this subsection shall:

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23 (i) Provide the telecommunications service on a
24 nondiscriminatory, nonexclusive and competitively neutral
25 basis; and

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1 (ii) Provide the telecommunications service at a
2 price which covers cost, including imputed costs that the
3 city, town or political subdivision would incur if it were
4 a for-profit telecommunications company.

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6 (e) Any person may complain to the commission, and
7 the commission may on its own motion initiate an
8 investigation, concerning any alleged violation of this
9 section by a city, town or political subdivision, subject
10 to the following:

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12 (i) If the commission finds that a city, town or
13 political subdivision has violated this section, or finds
14 that any rule, action or order of a city, town or political
15 subdivision is anticompetitive or otherwise violates this
16 section, the commission shall notify the city, town or
17 political subdivision of the violation. The city, town or
18 political subdivision shall cure the anticompetitive
19 behavior within ninety (90) days following mailing of
20 notice by the commission; and

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22 (ii) If the city, town or political subdivision does
23 not cure the anticompetitive behavior within ninety (90)
24 days, the commission shall commence a contested case

1 hearing on the complaint, governed by the Wyoming
2 Administrative Procedure Act, W.S. 16-3-101 et seq. If,
3 following the hearing, the commission finds that the city,
4 town or political subdivision has violated this section,
5 the commission shall prohibit the city, town or political
6 subdivision from providing any telecommunications service
7 until the violation of this section is remedied.

8

9 **Section 2.** This act is effective July 1, 2007.

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(END)