

HB 2108 (Broadband)

Another Attempt by Big Cable to Limit Competition

*23 charge and collect the rates, fees and charges so fixed or revised. The authority shall maintain records
24 demonstrating compliance with the requirements of this section concerning the fixing and revision of
25 rates, fees, and charges that shall be made available for inspection and copying by the public pursuant
26 to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), notwithstanding any exemption in that
27 Act or in this chapter. [emphasis added.]*

HB2108 claims to create transparency for taxpayers but by removing the very few FOIA exemptions that currently apply to local Broadband Authorities this bill makes it nearly impossible to operate a community network and lays waste to millions already invested.

1) Customers Require Strict Confidentiality - HB 2108 makes that impossible.

- Most local broadband authorities are set up to sell to or through other private companies as this encourages more marketplace competition for service end users.
- HB2108 removes protection for the privacy of local Broadband's customers by repealing all existing FOIA exemptions
- Enterprise customers often need to share their cyber strategy including facility locations and access points, existing and planned critical infrastructure, service capacity and expansion needs, security protocols, and more.
- HB 2108's repeal of all FOIA exemptions in the Virginia Wireless Services Authority Act (Code section, § 15.2-5431.25) relating to how an Authority determines its rates, fees or charges invites wasteful lawsuits
- Anyone who would like to obtain proprietary information for competitive advantage will have an open door to claim that the customer's information is required to verify whether or not a local broadband authority properly applied its rates, fees and charges.
- Few, if any, commercial customers will be willing to do business with any entity who can't protect their private and proprietary data. This is why Big Cable wants this bill!

2) Local Broadband Authorities can't afford to waste resources - HB 2108 invites profligate litigation.

- HB 2108 limits broadband market competition across the Commonwealth by hampering the ability of local Broadband Authorities to meet customer needs.
- Incumbent telecom providers have dozens of lawyers ready to file unlimited FOIA requests for the sole purpose of tying up the resources of local authorities

VOTE NO on HB 2108

- Big Cable already dedicates countless dollars to sending staff representatives to attend all of the public meetings of each authority across the Commonwealth, resources that could no doubt be better applied to serving customers, improving infrastructure, or expanding service
- Local communities leveraging the Wireless Services Act of 2003 do not want to be in the business of broadband. They are doing it because their constituents have asked for help and they need to protect their local economy.

3) Existing laws already provide transparency and oversight and have stood firm for 14 years.

- The existing rate setting process is fully transparent and already requires public notice, at least two newspaper ads, public hearing and discussion forums specific to rate setting methodology as well as board approval vote at open and publically attended meetings.
- Under current law monthly financial statements, annual audit reports and the results of any other financial oversight required by relevant 3rd party lender institutions are all already publically available
- The italicized language in Lines 23-26 of HB 2108 about maintaining records available for public inspection is already expressly required in both Sections B and C of this same Code section
- Lines 26-27 in HB 2108 creates a scheme whereby Big Cable can use FOIA to intimidate and bully local authorities as they go on a fishing expedition looking for confidential proprietary information about their competitors customers and operating practices
- Public Opinion has remained firmly against HB 2108 from the moment of introduction. Over the last three weeks, more than 50 news stories here in Virginia as well as across the country have touted the foolishness and short-sighted nature of this proposed legislation
- There is no state or federal precedence for the comprehensive removal of standard FOIA exemptions
- Removing these carefully crafted, and very limited, exemptions would make it impossible for authorities to meet their operational mandates, laying waste to the millions of taxpayer dollars already invested.

HB 2108 provides a recipe for protracted litigation and monopolistic protection for the very same Telecom providers who have had 20+ years ensure Virginia's economy isn't left behind...

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