

66.0422 Video service, telecommunications, and broadband facilities. (1) In this section:

(b) “Local government” means a city, village, or town.

(c) “Telecommunications service” has the meaning given in s.196.01 (9m).

(d) “Video service” has the meaning given in s. 66.0420 (2) (y).

(2) Except as provided in subs. (3), (3d), (3m), and (3n), no local government may enact an ordinance or adopt a resolution authorizing the local government to construct, own, or operate any facility for providing video service, telecommunications service, or broadband service, directly or indirectly, to the public, unless all of the following are satisfied:

(a) The local government holds a public hearing on the proposed ordinance or resolution.

(b) Notice of the public hearing is given by publication of a class 3 notice under ch. 985 in the area affected by the proposed ordinance or resolution.

(c) No less than 30 days before the public hearing, the local government prepares and makes available for public inspection a report estimating the total costs of, and revenues derived from, constructing, owning, or operating the facility and including a cost–benefit analysis of the facility for a period of at least 3 years. The costs that are subject to this paragraph include personnel costs and costs of acquiring, installing, maintaining, repairing, or operating any plant or equipment, and include an appropriate allocated portion of costs of personnel, plant, or equipment that are used to provide jointly both telecommunications services and other services.

(3) Subsection (2) does not apply to a local government if all of the following conditions apply:

(a) On November 1, 2003, the public service commission has determined that the local government is an alternative telecommunications utility under s. 196.203.

(b) A majority of the governing board of the local government votes to submit the question of supporting the operation of the facility for providing video service, telecommunications service, or Internet access service, directly or indirectly to the public, by the local government to the electors in an advisory referendum and a majority of the voters in the local government voting at the advisory referendum vote to support operation of such a facility by the local government.

(3d) Subsection (2) does not apply to a facility for providing broadband service to an area within the boundaries of a local government if any of the following are satisfied:

(a) The local government asks, in writing, each person that provides broadband service within the boundaries of the local government whether the person currently provides broadband service to the area or intends to provide broadband service within 9 months to the area and within 60 days after receiving the written request no person responds in writing to the local government that the person currently provides broadband service to the area or intends to provide broadband service to the area within 9 months.

(b) The local government determines that a person who responded to a written request under par. (a) that the person currently provides broadband service to the area did not actually provide broadband service to the area and no other person makes the response to the local government described in par. (a).

(c) The local government determines that a person who responded to a written request under par. (a) that the person intended to provide broadband service to the area within 9 months did not actually provide broadband service to the area within 9 months and no other person makes the response to the local government described in par. (a).

(3m) Subsection (2) does not apply to a facility for providing broadband service if all of the following apply:

(a) The municipality offers use of the facility on a nondiscriminatory basis to persons who provide broadband service to end users of the service.

(b) The municipality itself does not use the facility to provide broadband service to end users.

(c) The municipality determines that, at the time that the municipality authorizes the construction, ownership, or operation of the facility, whichever occurs first, the facility does not compete with more than one provider of broadband service.

(3n) Subsection (2) does not apply to a local government that, on March 1, 2004, was providing video service to the public.

(4) Notwithstanding sub. (2), a local government may enact an ordinance or adopt a resolution authorizing the local government to prepare a report specified in sub. (2) (c).

(5) If a local government enacts an ordinance or adopts a resolution that complies with the requirements of sub. (2), the local government must determine the cost incurred in preparing the report specified in sub. (2) (c). As soon as practicable after the local government generates revenue from a facility specified in sub. (2) (intro.), the local government shall use the revenues to reimburse the treasury of the local government for the cost determined under this subsection.

History: 2003 a. 278, 327; 2007 a. 42.