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To: Lemoore City Council **Item # 6**
From: John Tyler, Administrative Analyst
Date: May 25, 2006
**Subject: Opposition to AB 2987: The Digital Infrastructure and
Video Competition Act of 2006; Resolution 2006-25**

Discussion:

The League of California Cities has requested that agencies do their part to resist the changes to Telecom Franchises being proposed by the Telecom Companies and members of the State Legislature under **AB 2987: The Digital Infrastructure and Video Competition Act of 2006**. Debbie Olson, our local grassroots advocate for the League of California Cities, will be in attendance on Tuesday night to discuss and/or answer any concerns or questions you may have.

According to League of California opinion:

The existing regulatory framework governing telecommunications lacks the sophistication and flexibility needed to accommodate the rapidly advancing technology in this arena. Traditionally, services such as telephone, cable and Internet were offered as separate and isolated services. However, the practice of consolidating these services and offering the customer a "bundled" package is becoming increasingly common. The current laws do not effectively regulate the new technology; therefore reform is clearly needed. Although local government supports refining the laws to better address the issues cities are faced with as telecommunication technology continues to evolve, the current focus of the reforms represent a shift from local to national or state franchises. This is of grave concern to cities as the proposed legislation, introduced at both the federal and state levels, significantly and adversely impacts local control. Specifically, the negative impacts include:

1. **State Franchise Authority** – The bill establishes a statewide franchise system administered by the state Department of Corporations, thus setting up a new bureaucracy to process franchise applications. Since this has been a local mandate, state departments have no experience with franchise applications. The League of California Cities' (League) recommendation is to enact a state franchise law that is executed at the local level.
2. **Franchise Provisions/Franchise Fees** – The League's recommendation is to define "gross revenues" broadly, ensure that cities remain whole financially under any new franchise system and include language acceptable to local government regarding ability to a) deny renewal of a franchise for lack of compliance, b) address late

- payment issues and c) designate the franchise company as the responsible party for payment of franchise fee.
3. **Preemption of Local Tax Authority** – The language is too broad and preempts local tax and fee authority. This should be corrected.
 4. **Right of Way Management** – Communities may have no aesthetic control over placement and maintenance of “connection boxes” and no local authority to deal with concerns and complaints (i.e., view obstruction, graffiti abatement, etc.). One new entrant, for example, would like to place large connection boxes (5’-6’ tall with a 3’-4’ base) in neighborhood service areas. Under this law, citizens wishing to voice their opinions or concerns about the aesthetics will need to contact state legislators in their district offices instead of local officials. In addition, procedural rules regarding right of way management must be included in the bill. Examples of such management include responsible parties for broken water main, clean up and other safety and repair issues.
 5. **Consumer Protection/Customer Service** – Under current law, cities have the option to assume the authority to enforce consumer protection and customer service standards. The League’s recommendation is to amend the bill to allow those cities with the desire and experience to continue with this enforcement authority.
 6. **Emergency Notification** – Current law requires cable operators to cooperate with the federal Emergency Alert System. Local franchises require cable operators to provide a local emergency notification system (the “text crawler” at the bottom of the screen on every channel). The League’s recommendation is to require all video service providers to include a local emergency notification system.
 7. **Public Education and Government Channels** – The concern is the standards covered under the bill for Public Education and Government (PEG) services may not be flexible enough to meet the growing needs in California. Additional discussions are needed to further explore this issue.
 8. **Build Out/Discrimination Issues** – Under current law, local governments have the authority to demand build out of cable systems to ensure that all parts of the community receive these services, thus ensuring deployment of these services in an equitable manner. New entrants should not be allowed to “pick and choose” the parts of the community to provide telecommunications services. This could result in companies offering services only where it is most profitable and [this practice] needs to be prevented.

The League of California Cities has proposed several revisions to AB 2987 that would demonstrably improve the above areas of concern, and protect both local governments and consumers. The recommendations represent a necessary set of goals that any telecommunications reform must consider, and without which, are the basis of the League’s opposition to AB 2987. In contrast, the League does suggest that concessions/adjustments could be made in the proposed legislation that would better protect the interests of the Cities. If those changes were made before a final vote, the League’s position could possibly change.

Budget Impact:

In its current form, AB 2987 could cause considerable financial impacts to cities by taking franchising control out of the hands of local lawmakers and transferring the control to the State. Along with the control, of course, goes the funding. In other words, the City of Lemoore could potentially lose franchise fees if AB 2987 is passed in its current form. Additionally, the City could also lose control of its public right-of-ways. But opposing the bill has no financial impact.

Recommendation:

That Council would adopt resolution 2006-25 in opposition to California Assembly bill ***AB 2987: THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006*** in its current form and support reform of federal telecommunications laws guided by the League's Telecommunications Taskforce recommendations; and authorize the City Manager to Communicate the City's position to state and congressional delegations.