

SOUTH CAROLINA CABLE TELEVISION ASSOCIATION NEWSLETTER

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ILLEGAL IMMIGRATION REFORM ACT

The General Assembly of South Carolina enacted the

Illegal Immigration Reform Act late

in the legislative session. The Act was characterized as one of the toughest immigration reform plans in the nation. After July 1, 2009, all private employers of 100 or more employees must verify that newly hired employees are in the country legally by participating in the E-Verify federal program or by making a copy of a valid driver's license or identification card. These same requirements will be imposed on private employers of less than 100 employees on July 1, 2010.

Private employers cannot knowingly or intentionally employ an unauthorized alien. The penalty for a first offense is suspension of employment

license for 10-30 days, second offense is suspension for 30-60 days, and third offense is revocation of license for 5 years. The Department of Labor, Licensing & Regulation investigates allegations of violations and will conduct random audits to ensure compliance. Each failure to verify the immigration status of a new employee is considered a separate violation. A list of all private employers who have been assessed a civil penalty or who have had their licenses disciplined or revoked will be published on the Department's website.

The Act also provides a method for former employees to sue their employers for wrongful termination if the employee was replaced within 60 days by an illegal immigrant. The employee's recovery is limited to the reinstatement of his former job, actual damages and lost wages.

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DEPARTMENT OF REVENUE NEWS

Sales Tax Regulations for Communications Services

The General Assembly approved Regulation No. 117-329 which addresses the application of the sales and use tax to communications services. The amendment summarizes longstanding Department opinion concerning the taxability of various communications services and attempts to list as many communications services as possible that the Department has held in the past as subject to the tax through advisory opinions and audits. For example, the tax should be assessed on communications services such as telephone (including VoIP), paging, answering services, cable television, satellite programming, fax transmission, voice mail messaging, e-mail, database access transmission services such as legal research services, credit reporting/research services, and charges to access an individual website.

Federal Coupons for Television Converter Boxes

The Department of Revenue issued Revenue Ruling 08-4 in regard to the appropriate sales tax charge to be imposed by a retailer for a converter box. If a consumer purchases a digital-to-analog converter from a retailer using a federal coupon and the price is reduced by the \$40 federal coupon, the total amount including the coupon is taxed. For example, if the converter sells for \$50 and the customer pays \$10 and presents a \$40 federal coupon, the sales tax is based on \$50.

Purchases by Individuals 85 Years of Age and Older

On April 25, 2008, the Department of Revenue issued Revenue Ruling 08-5 in regard to the sales tax to be imposed on purchases by individuals who are 85 years old and older. South Carolina imposes a sales tax rate of 6%. Local sales taxes collected by the Department are imposed at rates of 1%, 1.5% and 2% depending on the county. The South Carolina sales tax law provides a lower state tax rate sometimes referred to as the 1% exclusion for 85 year olds. In other words, a person who is at least 85 would pay a state sales tax of 5% instead of 6% (any local sales tax would still apply) on purchases of communications services, such as phone service (long distance calls are already exempt), cable television service, and satellite programming service. The exemption requires that (1) the individual purchases the service for himself, (2) that the service is purchased for his own use, (3) that the purchaser requests the exclusion at the time of the sale, and (4) that the purchaser provides the retailer with proof of age.

Public Service Commission Elections

Terms for four of the seven Commission Seats on the Public Service Commission expired June 30, 2008. Three of the four incumbent Commissioners returned for another term—John E. “Butch” Howard, Randy Mitchell, and G. O’Neal Hamilton. Swain E. Whitfield replaced Commissioner Robert Moseley in the “at large” seat. Mr. Whitfield is a native of Winnsboro and is currently the president of Whitfield Transportation, Inc., a transportation brokerage and trucking company based in Winnsboro. He began his term on July 1, 2008. Elizabeth B. “Lib” Fleming of Spartanburg (4th District) was elected to serve as the Chairman and John E. “Butch” Howard of Charleston (1st District) as Vice Chairman on July 9, 2008.

6th Circuit Upholds FCC Order on Competitive Cable Franchises

The 6th Circuit upheld an FCC order that adopted rules interpreting a section of the Communications Act that prohibits local franchising authorities from unreasonably refusing to award competitive cable franchises. *Alliance for Community Media v. FCC*, Nos. 07-3391 et al. (6th Cir., June 27, 2008). The FCC’s order released in March 2007 was premised on findings that the operation of the local franchising process was unreasonably impeding competitive entry by competitive wireline video providers into the cable television market. The decision upheld the FCC’s rulings on (1) the time frames for awarding competitive franchises, (2) unreasonable build-out mandates, (3) a variety of franchise-related costs that must be applied toward the 5% federal cap, (4) unreasonable demands for PEG capacity, and (5) the franchisor’s limited jurisdiction.

FCC BRIEFS

FCC Orders and Notices can be downloaded from the FCC’s website at www.fcc.gov.

On July 1, 2008, the Commission released its Quarterly Report on Informal Consumer Inquiries and Complaints for 3rd quarter 2007. Complaints decreased 6.4%. The major source of the decrease was in the category for Radio & Television Broadcasting under Programming Indecency/Obscenity. The number of Radio & TV Broadcasting complaints decreased from 5675 to 987. Wireless complaints increased 24%. Wireline complaints also increased with 86% of those being related to Telephone Consumer Protection Act- “Do Not Call List” and Unsolicited Fax ranked as the top categories. The report can be viewed at <http://www.fcc.gov/egb/quarter/welcom.htm>.

On May 1, 2008, the FCC adopted an interim cap on payments to competitive eligible telecommunications carriers under the USF. The FCC’s actions are intended to stem the explosive growth of the USF while it pursues comprehensive reform of the program. Total annual support for CETCs will be capped at the level of support they were eligible to receive in each state during March 2008. FCC 08-122.

STATE-ISSUED CERTIFICATES OF FRANCHISE AUTHORITY

As of July 28, 2008, following are the current certificates of franchise authority with the South Carolina Secretary of State:

<i>Company</i>	<i>Areas</i>
ATLANTIC BROADBAND.....	Snelling, Fairfax, Barnwell, Williston, Bamberg, Bamberg County, Denmark, Allendale
BERKELEY CABLE TV, INC.....	Moncks Corner, Harleyville
BROADBAND EXPERIENCE.....	Central, Pickens County, Clemson
d/b/a FAMILY VIEW CABLEVISION	
CATAWBA, INC.....	Rock Hill
CHARTER COMMUNICATIONS, LLC...	Pickens County, Union, Woodruff, Pelzer, West Pelzer, Easley, Greenville, Travelers Rest, Greenville County, Starr, Oconee County, Salem, Spartanburg, Clinton, Laurens, Honea Path
CHESNEE COMMUNICATIONS.....	Cherokee County, Spartanburg County, Chesnee
COMCAST OF CAROLINA.....	Goose Creek, Hampton County, Edisto Beach, James Island
COMCAST OF GEORGIA/SC II.....	Edisto Beach, Meggett, Hollywood
COMCAST OF GEORGIA/SC INC.....	Hampton County, Aiken County, Burnnettown
COMCAST OF THE SOUTH.....	Prosperity
HARGRAY CATV CO., INC.....	Jasper County, Estill, Hampton
HOME TELECOM.....	Goose Creek, North Charleston
HORRY TELEPHONE COOPERATIVE...	Conway, Surfside Beach
HPI ACQUISITION CO., LLC.....	Anderson, Due West
MANAGED SERVICES INC.....	Jasper County, Berkeley County, Richland County, Horry County
METROCAST COMMUNICATIONS.....	McColl, Marlboro County
OF MISSISSIPPI, LLC	
NORTHLAND CABLE TELEVISION.....	West Union, Pickens County, Seneca, Laurens County
PASSPORT COMMUNICATIONS.....	Fort Mill
PINE TREE CABLEVISION.....	Lamar, McBee, Cottageville, Kershaw County, Bamberg County, Orangeburg County, Aiken County, Perry, Wagener, Salley, Bethune, Gaston, Jefferson, Barnwell County
TECHCORE CONSULTANTS II.....	Orangeburg County, Holly Hill, Ehrhardt, Bowman, Eutawville, Dorchester County
TIME WARNER CABLE, LLC.....	Georgetown County, Charleston County
TIME WARNER ENTERTAINMENT.....	Myrtle Beach, Conway, Surfside Beach, Sumter, Sumter County,
ADVANCE/NEWHOUSE PTRSHP	Richland County, Orangeburg, Orangeburg County, Columbia, Forest Acres, Lee County, Quinby, Myrtle Beach Air Force Base, Cayce, Springdale, West Columbia, Florence County, Georgetown County
TIME WARNER ENTERTAINMENT ADVANCE/NEWHOUSE PTRSHP.....	Clover, Fort Mill, York County
-CHARLOTTE DIVISION	
TIME WARNER NY CABLE, LLC.....	Dillon County, Nichols, Bluffton, Hardeeville, Jasper County, Hilton Head, Marion County, Lakeview
VIDEO VISION, INC.....	Heath Springs, Kershaw, Lancaster County
YRT2, INC.....	Greenville, Greenville County, Berkeley County, Dorchester County, Summerville, Columbia, Horry County, Myrtle Beach

SOUTH CAROLINA LEGISLATIVE UPDATE



The second session of the General Assembly adjourned in June. The following bills of interest were enacted since the last newsletter:

Act Unnumbered – House Bill 4735 – Educational Broadband Service Commission

This joint resolution creates the S.C. Educational Broadband Service Commission which will evaluate business proposals for leasing the excess spectrum capacity licensed to the S.C. Educational Television Network that will become available after the federally required conversion to digital broadcasting. The commission has 7 members from the private sector. The Act also establishes the competitive process that is to be used by the Broadband Commission. It was signed by the Governor on May 27, 2008.

Act 208 – Senate Bill 1077– Educational Broadband Service Spectrum

This bill provides that when Greenville Technical College and Trident Technical College enter into contracts with third parties to lease their excess spectrum capacity, the lease agreements must be designed so that the Colleges receive the market rate for the capacity. It also exempts the licenses from the Procurement Code. It was signed by the Governor on May 13, 2008.

Act 245 – Senate Bill 1085 – PAC Contributions

This act adds a provision that provides a corporation or committee of a corporation may solicit contributions for its PAC from its shareholders and executive or administrative personnel and family members of the personnel of the corporation or its subsidiaries or affiliates. The Governor's veto was overridden by the General Assembly on May 29, 2008.

Act 330 – House Bill 4953 – LightRail Consortium

The Consortium was created to manage access to a high speed, high bandwidth fiber optic communications network for research and clinical work conducted by the State's institutions of higher learning and their research partners. LightRail allows faculty members at participating institutions in different locations to collaborate in real time. The Act specifies that the LightRail network is not to compete with the commercial communications or information offerings of private sector participants. It became law without the Governor's signature on June 17, 2008.

Act 357 – House Bill 4470 – Fire Sprinkler System

The Act authorizes tax credits and exemptions to encourage the installation of fire sprinkler systems in commercial and residential structures. The legislation provides that a taxpayer who installs a fire sprinkler system in a commercial or residential structure is eligible for a credit against real property taxes levied by a local taxing entity equal to 25% of the direct expenses incurred. The Governor's veto was overridden by the General Assembly on June 25, 2008.

S.C. Legislative Update continued....

Act 359 – House Bill 4815 – Motion Picture Incentives

This act revises and updates tax incentives for motion picture productions in SC by adding and modernizing definitions, eliminating the rebate of state and local sales taxes provided under former law, providing for the carry forward of rebate funds to avoid multiple applications, clarifying the wage incentive and resident hiring bonus, increasing the number of days state property may be used without fee, and providing additional requirements for film credits for South Carolina. It allows for a rebate to a production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with production of qualified production activities. The rebate is up to 20% of the total aggregate South Carolina payroll. Up to an additional 10% rebate may be paid for all South Carolina residents who are paid a minimum of \$18 per hour. It also transfers the S.C. Film Commission from the Department of Commerce and establishes it as a separate division of the Department of Parks, Recreation, and Tourism. The Governor's veto was overridden by the General Assembly on June 25, 2008.

Other bills of interest which did not advance this legislative session include

NFL Bill – Senate Bill 989 / House Bill 4374

There was no further movement on National Football League owners-backed legislation which would have forced South Carolina cable operators to negotiate contracts to carry the NFL network. The SC Cable Television Association testified during the April 2008 hearing in opposition to the legislation.

Wireless Cloud – Senate Bill 1181 / House Bill 4692

The SC Budget & Control Board and SC ETV would have been required to provide a wireless cloud over all public schools and over a 10 mile radius surrounding the schools. It did not move out of the House Labor Committee.

Broadband Reports – House Bill 4843

Broadband providers would have been required to periodically submit reports to the Public Service Commission on the deployment of broadband Internet service to the public. It did not move out of the House Labor Committee.