

# WAPC



## Wisconsin Association of PEG Channels

*Serving the needs of public, education, and government cable access television stations since 1998.*

January 14, 2008

Dear PEG Access Television Supporters:

The video competition bill is now law.

You and WAPC have spent the last year working hard to ensure AB207 would not spell the end of PEG access television in Wisconsin. I can report that we have succeeded, yet even the Governor, who signed the bill on December 21, admitted concerns about PEG's future under this law -- Act 42 -- and urged lawmakers to consider remedial legislation.

So what does the final version of Act 42 look like and how will it affect PEG?

**Governor Doyle used his line-item veto power to increase state executive branch control over telecommunications companies**, deleting provisions that would have tied the hands of the Department of Financial Institutions and the Department of Agriculture, Trade, and Consumer Protection. The Governor also eliminated language that would have granted state cable franchises in perpetuity and he leveled the playing field for big and small players.

Despite these improvements in state oversight, state and local level consumer protections remain meager and only one line-item veto was directed toward improving conditions for PEG stations.

**Making Wisconsin law consistent with federal law, the language requiring PEG channels to be "non-commercial" was struck.** The Governor stated:

*I am partially vetoing section 8 as it relates to the definition of public, educational and government channel usage. As written, the bill states that such channels are defined as noncommercial. By striking noncommercial, I am giving public, educational and governmental channels the ability to air revenue-generating commercial programming.*

In the coming months, WAPC will be having numerous conversations about how this will affect individual non-profit stations dedicated to governmental, educational, and public interests.

The Governor dedicated two additional paragraphs in his veto message to PEG, first explaining why he did not make changes in the areas of PEG fees and content requirements, and then recommending that the legislature consider additional legislation to address concerns related to the balance of power between PEG stations and video providers. The Governor wrote:

I also carefully reviewed Assembly Bill 207 as it relates to public, educational and governmental channels in light of the concerns raised by interested parties on this matter. The bill requires that these channels continue as long as minimum criteria are met. Financial support of these channels by video service providers ends after three years under the bill. The intent of the bill is that the payment to the municipalities by video service providers of up to five percent of their gross receipts provides sufficient compensation for this access right.

While I did not exercise my partial veto authority in this part of the bill, I remain concerned about maintaining balance between the interests served by public, educational and governmental channels and video service providers. I urge the Legislature to review this issue and consider follow-up legislation to address any remaining concerns.

Finding out what the concerns of the Governor are will be one of WAPC's tasks, but a review of where PEG stands today under Act 42 might give you some good ideas about what the Governor might be satisfied with and what he is not.

**The Governor appears satisfied with channels meeting "minimum criteria."** Current access channels operated by community based organizations will remain in operation as long as they meet "substantial utilization" requirements: "...40 hours or more of programming on the PEG channel each week and at least 60 percent of that programming is locally produced." It is WAPC's understanding that programming includes message boards and we will be keeping an eye on this.

**PEG stations were granted a short breather with PEG fees continuing for three years until January 1, 2011.** The Governor's only option with the veto pen was to grandfather current PEG fees. While nearly all of the over two dozen cities in Wisconsin with PEG fees receive well under an additional 1%, one community receives over 2.5% in PEG fees.

WAPC hopes that the legislature will revisit the idea of a PEG fee, keeping in mind that:

- The 5% franchise fee paid to municipalities reimburses the community for the company's use of public resources – the street easements – and it goes in the general fund that pays for all municipal expenses.
- It is reasonable for cable television subscribers to pay for the local programming they receive,
- It is reasonable to ask video providers to give back 1% to the communities they serve to support the creation of community programming.

**No breather at all was given to PEG stations relying on in-kind support from cable companies. This support can be terminated immediately.**

Cities that rely on cable companies to manage PEG access television stations are in immediate danger of losing this service and need to quickly open a conversation with their cable companies and their city councils about the future.

Governor Doyle may be concerned about how PEG channels will be adversely affected by company "business decisions." Certainly, WAPC is. **Companies can destroy PEG access channels by making it difficult for viewers to find PEG on the line-up and making it difficult for viewers to stick by these channels when programs are broadcast with poor resolution.** If viewership wanes, cities, upon whom PEG is now totally dependent, will pull

funding. For example, Act 42 under Act 42, PEG channels are to be placed any tier with 50% or more subscribers or, if a channel is removed from the line-up for failing to be "substantially utilized" and later reinstated, on any tier it likes. Companies can move PEG channels at their discretion with no special notice to access stations or municipalities. PEG channels are likely to be moved from high-value channel numbers like 10 and 12 to the nosebleed section of the line-up (Michigan's PEG stations now occupy the 900's). Companies do not have to list access channels in any of their print or electronic materials.

Under Act 42, customers will have to pay more to see PEG channels and it will be much harder to find them.

PEG channels are not protected by any technical standards. Language that requires companies to provide upstream links from current (not future) local programming origination points to their headends unfortunately does not include any technical standards for this connection. Nor does the new law require that subscribers be able to see and hear PEG channels just like any other channel on the line-up. The AT&T streaming standard is low and WAPC anticipates that PEG channels will no longer be carried at broadcast quality as federal law currently requires. AT&T is expected to congregate PEG channels from a region on a single channel/website and require subscribers to drill down and up through a series of menus to see a local show – a process that can take up to a minute!

The future for PEG is also troubling because Act 42 does not take into consideration community needs and effectively freezes the number of community outlets for speech. There is no provision to allow a community to add a PEG channel.

If a city has no access channels today, at best, it will only be eligible to contribute programming on two or three regional channels established by the local telecommunications company based on the population served by the company's headend. Today, most headends serve broad swaths of the state. The idea that every community of some size should have a local outlet for expression has been lost.

All of these provisions may be of concern to the Governor in addition to a seeming contradiction between the veto message and the actual veto in the bill concerning permit fees. While Governor Doyle appeared to say in his veto message that he saved municipal permit fees, in effect he did not. While under Act 42 cities may assess permit fees, telecommunications companies may deduct these permit fees from franchise fees. Cities that collect permit fees may choose to reduce the amount of franchise fee revenue given to local access stations to make up the lost revenue. The lack of a veto to allow permit fees was very disappointing to cities as well as WAPC.

WAPC was also deeply disappointed that Governor Doyle did not veto an unnecessary and mean-spirited provision that allows a current cable company to withhold PEG fees and take PEG channels off the air for 90 days if a municipality does not respond to a request for information from a newly certified competitive video provider within 10 working days. WAPC will be working to ensure municipalities are well aware of this provision and its potentially disastrous effects on current PEG operations.

WAPC is committed to working with PEG stations, stakeholders, cities, legislators, and the Governor's Office to create opportunities to strengthen PEG channels, pursue corrective legislation, develop reasonable rules to implement Act 42, and help cities prepare to protect their PEG stations under the new law. The legislation is likely to spark legal disagreements and WAPC hopes to assist in providing perspective to our members as that occurs. WAPC also plans to track the effect Act 42 has on rates, PEG stations, and certain services.

We welcome your participation as members and as residents of Wisconsin, as we continue to strengthen homegrown television in the era of big media. You and I can use these channels to speak. You and I can bring programming to these channels that we believe is important for our community to see. You and I can encourage our community groups to use these channels to reach our neighbors and cities across the state. You and I can help raise the funds to make our stations shine. You and I can speak out on the local and state level to defend our PEG channels.

**Please take a moment now to contact your legislator and the Governor and tell them you support remedial legislation to correct provisions concerning PEG.**

***Call Governor Doyle's Office at 608-266-1212***

***-- or --***

***You may also choose to e-mail the Governor with the same message at***

<http://www.wisgov.state.wi.us/contact.asp>

***Contact your Senator or Assemblyperson***

Go here to get contact information for your representative:

<http://waml.legis.state.wi.us/>

Community television is still what you and I make it.

Thank you once again for your support over the last year and thank you for your continuing support!

Sincerely,

Mary Cardona  
Executive Director  
WAPC

WAPC member stations: Beloit Access Television, Deerfield Community Access TV, Dodgeville Community Access TV, Chippewa Valley Community Television, Fitchburg FACT-TV, City of Hartford Cable, Hudson-North Hudson Cable TV, Janesville JATV 12, Jefferson PEG, Kenosha Community Television, Kenosha Unified School District Channel, Lake Mills Community Access TV, Madison WYOU Public Access, Madison City Channel, Madison Metropolitan School District Channel, Marshfield Public Access, City of Mauston – Channel 6, WMCF McFarland Cable 12, UW Fox Valley University Studios, Menomonee Falls Cable Access Corporation, Merrill Area Public Schools, Milwaukee MATA, Monona School/Community TV, Mount Horeb Villagecable 12, New London Cable 3, Okauchee CATCH 25, Oshkosh Community Access TV, Pleasant Prairie Village Television, Plymouth Community Television, Prescott Public Access, Reedsburg Community Access Station, Rice Lake Public Access, Ripon City Channel, River Falls Community Television, Sevastopol Channel 19, Sheboygan WSCS TV 8, Stevens Point Community Television, Sturgeon Bay Public Access, Sun Prairie Cable Access, Waterloo Community Access TV, School District of Waukesha Channel, Wausau Public Access Channel, West Allis Community Media Center, West Bend Community Cable, Trempealeau County Community Television, Whitewater Community Television, River City Community Access (Wisconsin Rapids).

**For more information, go to [www.saveaccessTVwisconsin.org](http://www.saveaccessTVwisconsin.org).**