

# SENATE . . . . . No. 2295

[Senate, December 7, 1983 — Substituted by amendment by the Senate (Lewis) as a new text of House Bill, No. 6608, amended]

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-four.

1 The General Laws are hereby amended by inserting after  
2 chapter 166A the following chapter:—

3 CHAPTER 166B.

4 *Section 1.* It is the express purpose of this act to permit and  
5 allow the cities and towns of the commonwealth to contract  
6 with a private community antenna television operator to build,  
7 maintain and operate or to maintain and operate a communi-  
8 ty antenna television system and to require the operator so  
9 selected to lease the personal and real property employed in  
10 such system from said town. All contracts and leases entered  
11 into in connection with such arrangements shall serve the said  
12 city or town in a manner which, in the judgment of the city  
13 council or board of selectmen of said city or town, best serves  
14 the citizens of said city or town consistent with the specific pro-  
15 visions of this act and the supervision of the state community  
16 antenna television commission.

17 *Section 2.* For the purpose of establishing a community  
18 antenna television system within a city or town such city or  
19 town may establish a community antenna television board.  
20 Said board shall have the right to contract with private or  
21 public corporations for the provision of community antenna  
22 television system for said city or town. Said board may issue  
23 bonds or notes which shall be revenue bonds and not general  
24 obligation bonds to be paid by the taxpayers of the cities and  
25 towns of the commonwealth, and which shall bear on the face  
26 the name of the individual city or town and shall be known as,  
27 Cable Television Revenue Loan, Act of 1983.

28 *Section 3.* The community antenna television board in such  
29 city or town shall be composed of five members. In a town all  
30 members shall be appointed for a term of five years by the  
31 board of selectmen. In a city the said community antenna  
32 television board shall be composed of five members and shall

33 be appointed by the mayor for a term of five years. The first  
34 appointments to said community antenna television board  
35 shall be staggered terms with one appointment for one year,  
36 the second appointment for two years, the third appointment  
37 for three years, the fourth appointment for four years, and the  
38 fifth appointment for five years.

39 *Section 5.* The said city or town, acting by and through its  
40 community antenna television board with the approval of the  
41 selectmen in a town or the mayor in a city, shall lease any  
42 system established pursuant to this act to a licensee, as defin-  
43 ed in chapter one hundred and sixty-six A of the General Laws  
44 for such license period as allowable under said chapter one  
45 hundred and sixty-six A; for such rent at least sufficient to pay  
46 the indebtedness incurred hereunder; and with such provisions  
47 for renewal of the lease, and upon such other terms and con-  
48 ditions deemed by the selectmen to be in the best interest of  
49 the said city or town, and which are consistent with the rules  
50 and regulations promulgated by the board pursuant to said  
51 chapter one hundred and sixty-six A. Such lease may provide  
52 for the construction of the system, including the acquisition  
53 of property or equipment therefor by the licensee either in  
54 whole or in part from the proceeds of borrowing by the said  
55 city or town hereunder. Contracts for such construction or such  
56 acquisition entered into by the licensee shall be deemed to be  
57 contracts of the said city or town under the laws and by-laws  
58 regulating the making of public contracts, including the pro-  
59 visions of section thirty-nine M of chapter thirty of the General  
60 Laws. Any lease granted pursuant to this section shall not take  
61 effect unless it is approved by the community antenna televi-  
62 sion commission established by section two of chapter 166A  
63 of the General Laws after a review of the lease to determine  
64 whether it is consistent with the provisions and the intent of  
65 the statutes and regulations enforced by commission. Such  
66 lease shall be deemed to have been approved by the commis-  
67 sion after the passage of sixty days from the date upon which  
68 a copy of the lease is provided to the commission by the said  
69 city or town unless during that time period the commission  
70 notifies city or town in writing of its disapproval of the lease  
71 and the reasons therefor. On the same date that it provides  
72 a copy of the lease to the commission, the said city or town

73 shall also provide a copy of the lease to the office of the in-  
74 spector general, established under the provisions of chapter  
75 twelve A of the General Laws. The inspector general shall  
76 review the lease and provide any written comments he may  
77 have with respect to the lease to the commission and the said  
78 city or town within thirty days of the date of his receipt of the  
79 lease.

80 *Section 6.* Payments for rent to pay the indebtedness incur-  
81 red hereunder made by the lessee under any lease establish-  
82 ed pursuant to this act shall not be considered a franchise fee  
83 under the provisions of section nine of chapter one hundred  
84 and sixty-six A of the General Laws.

85 *Section 7.* The provisions of section thirty-four of chapter one  
86 hundred and sixty-four of the General Laws shall not apply  
87 to any lease arrangement established under the provisions of  
88 this act.

89 *Section 8.* Notwithstanding the provisions of section thirty-  
90 six of chapter one hundred and sixty-four of the General Laws,  
91 the said city or town shall not establish such lease ar-  
92 rangements until authorized by a two-thirds vote after a  
93 favorable action recommended by the community antenna  
94 television board taken at each of two representative town  
95 meetings, the second of which shall be held not less than two  
96 nor more than thirteen months after the first such meeting.

97 *Section 9.* Nothing in this act shall prevent the issuing  
98 authority in the said city or town from licensing a community  
99 antenna television system under the provisions of chapter one  
100 hundred and sixty-six A of the General Laws without using the  
101 provisions of this act. Nothing contained in this act shall  
102 modify or affect the obligations of a licensee to pay the license  
103 fees to the commonwealth prescribed by section nine of said  
104 chapter one hundred and sixty-six A.

105 *Section 10.* Any licensee entering into a lease arrangement  
106 under the provisions of this act shall be subject to all provi-  
107 sions of chapter one hundred and sixty-six A of the General  
108 Laws and all rules and regulations promulgated thereunder  
109 unless specifically exempted therefrom by the provisions of  
110 this act.

111 *Section 11.* With respect to any cable television system con-  
112 structed or established pursuant to the provisions of this act,

113 the said city or town shall annually certify to the commissioner  
114 of revenue the total amount expended in the previous year for  
115 the purchase of goods and materials to be used in the construc-  
116 tion, establishment or operation of the system and for which  
117 no sales or use tax has been paid to the commonwealth. In the  
118 event that the said city or town conveys or transfers owner-  
119 ship of such system to another party, it shall require as a con-  
120 dition of such conveyance that the transferee shall pay to the  
121 commonwealth an amount equal to the sales or use tax which  
122 would have been imposed relative to the amounts certified by  
123 the said city or town with respect to the purchase of goods and  
124 materials together with the time value of money, had the sale  
125 or use of such goods and materials been subject to taxation  
126 at the time of purchase. Said amount shall be paid by the  
127 transferee to the commissioner of revenue and deposited in  
128 the General Fund.

129 *Section 12.* This act shall take effect in any city or town which  
130 accepts the provisions of this act by a majority vote of the  
131 voters of said city or town at a regular or special election.

132 *Section 13.* This act shall take effect upon its passage.