



# WEEKLY REPORT

State Senator Gary Nodler  
District 32



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## Discrimination - Not Competition

JEFFERSON CITY—During the course of debate on a bill considered by the Senate this week, somehow the goal to preempt authority for municipalities to issue local franchise for the use of their own right-of-way was euphemistically buried under a false claim of increasing marketplace competition. Senate Bill 816 would allow certain telephone companies to be granted a statewide franchise for providing video services. Proponents of the measure have translated this to mean that cable consumers in Missouri would have more options when it comes to receiving computer-based television services. This bill would permit AT&T to establish delivery footprints of their own choosing within cities and deny services to citizens at will.

It's as if a trash hauler were given a contract to provide services to a city, but would only pick up trash at certain houses while leaving piles of garbage at others. Or if a water company would supply water to some houses and cut off the flow of water to others.

A competitive free market *is* necessary, but the need for competition is not what is at issue here, contrary to what the bill's supporters claim. No one is arguing whether competition *should* exist, but those who oppose the bill assert that the way competition would be facilitated under this legislation is cause for concern. The problem isn't with the customers AT&T might choose to serve, but with those to whom they deny those services. The language of the bill, which I deem to be purposefully vague, builds a preferential and protective shield around these companies so they can't be sued for willful discrimination.

For cable and satellite companies to operate in cities, they must abide by certain regulations called franchise agreements. These agreements were established to give cities oversight in ensuring that all neighborhoods receive equitable service by requiring cable companies to offer service wherever feasible. Because the contracts are nonexclusive, any prospective provider, including phone companies, can operate under the same conditions applying to other providers.

But AT&T is begging for preferential treatment and not wanting to follow local franchising regulations to enter the cable market with a proposed fiber-optics system. The telecommunications giant plans to only offer this Internet-meets-television service to select urban areas. If AT&T can sidestep the local franchising agreements, it will gain statewide reign of the cable industry, meaning the company can go wherever it chooses, extend whatever services it chooses, and at whatever price it chooses.

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Cable TV customers are concerned about the rising price of cable. Costs are not driven by the local cable TV providers, but rather by companies that provide programming to cable TV systems. The legislation allows AT&T or any other company to vertically integrate the satellite TV market and program providers would gain greater control over delivery systems. Over time, this would push cable rates even higher.

Passage of SB 816 would not only rip away local control, but it would also hurt local funding. Although telephone companies would still have to pay the franchise fee of 5 percent of their annual gross revenue, the money would not go directly to the cities. Instead, the state would take its share of the fee, which would be detrimental to local communities because cities depend on cable franchise fees to fund important services such as road repairs and park maintenance.

I am all for increasing competition in the name of the consumers, but I want AT&T and other telephone companies to compete in the same market and on the same playing field as the cable and satellite companies. SB 816 dismisses these telecommunications entities from having to follow good business practices, disrespects the sovereignty of municipalities and discriminates against consumers.

The fact remains that nothing is stopping AT&T and other telephone companies from going to any of hundreds of municipalities where they offer phone service and negotiating a local franchise agreement to enter into the market for cable-television consumers. But they want to take the easy way out. When they turned to state lawmakers for a legislative fix, it was because they feared a lawsuit on the local level, knowing their selectively marketed product and services could in some way harm the consumer base.

If what AT&T is proposing to bring to consumers is of high enough quality and offered with reasonable fairness, then the product should have no problem entering the market as the current law stands. But because their actions indicate otherwise, we owe it to Missouri consumers to not honor AT&T's request for special treatment.

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*Senator Gary Nodler represents the people of Newton, Jasper  
and Dade counties in the Missouri Senate*