



**CITY OF CLEVELAND**

Mayor Frank G. Jackson

Cleveland City Hall  
601 Lakeside Avenue, Room 202  
Cleveland, Ohio 44114  
(216) 664-3544

**S.B. 117  
OPPOSITION TESTIMONY  
PRESENTED ON BEHALF OF THE  
CITY OF CLEVELAND  
BY VALARIE J. MCCALL  
CHIEF OF GOVERNMENT AFFAIRS**

To the Chair and Honorable Committee Members, on behalf of Mayor Frank G. Jackson and the Citizens of the City Of Cleveland, thank you for giving me this Opportunity to speak here today. My Name Is Valarie McCall and I am Mayor Jackson's Chief of Government Affairs.

I Am Here to testify In Opposition to S.B. 117 as introduced. While I understand that there are reports of discussions with the City of Cleveland to reach a compromise, let me assure you that the City of Cleveland has not been approached by anyone to "negotiate" alternative language and thus, are opposing the only version of the Bill that we are aware of. While, Mayor Jackson Opposes Senate Bill 117 For Numerous Reasons and the Administration joins those Witnesses Voicing Opposition here today, but I will limit my testimony to a select few of the Mayor's Exceptions. For your reference, I am attaching a copy of Mayor Jackson's and Councilmember's Matt Zone's April 5<sup>th</sup> letter to you, Mr. Chairman and Senator Jacobson; as

well as a copy of Resolution No. 548-07 as passed by Cleveland City Council in Opposition of S.B. 117., as you can see, these documents clearly articulate our position.

The City Of Cleveland views S.B. 117 as an *Unacceptable encroachment on the Home Rule Powers Granted To Cities by the Ohio Constitution, as well a dangerous restraint on Mayor Jackson's ability to protect the unique interests of Cleveland Residents.* This Bill eliminates the City Of Cleveland's long standing *ability to regulate the use of its Public Rights Of Way.* As you can imagine, it is imperative that use of and access to city streets be administered by local communities to advance efficiency, promote public safety and reduce public (not Corporate) inconvenience. The exercise of this authority is recognized in the Ohio Constitution as a **Proper Exercise of the Cities' Power Of Local-Self Government.** Senate Bill 117 Contravenes the City Of Cleveland's Home Rule Authority embodied in The Ohio Constitution. Please know that we recognize that some will argue that Home Rule Authority has not been limited, but any time one hider's a local municipality's effort to govern themselves with powers that were "Vested by the People and For the People," it is an assault on Home Rule.

Senate Bill 117 Sharply reduces and clearly threatens to eliminate Cleveland's successfully negotiated dedication of Six Public, Educational, and Governmental Access Channels. The Non-Commercial Access Channels Promote Open Government and Civic Discourse, and engages citizens in cultural events and community Issues. Senate Bill 117 represents a complete and

Abrupt Reversal of This Long-Honored Right Of Public Access, Without Adequate Justification.

While The Bill purports to permit the continued existence of some Public Access in Ohio, in reality, Senate Bill 117 will place every Access Channel in Cleveland at risk of going dark and being reclaimed at the sole discretion of the cable operator. The Bill imposes an *arbitrary* and *unreasonably* high standard for usage and expressly prohibits all dedicated financial support for Public, Educational, and Governmental Access Channels. The Bill will stifle Public Access to the Airwaves and will hamper efforts to ensure public confidence in open government, while destroying educational programs in Video Production and Broadcasting, which is Dependent on the Channels obtained through the Cable Franchising Process. While Senate Bill 117 claims to preserve public access, in reality it is designed to end Public, Educational, And Governmental Access Channels in Ohio and will likely do so in Cleveland.

While Senate Bill 117 *ostensibly* maintains the same level of Franchise Fees Permitted under Current Law, it actually reduces Franchise Fee payments significantly, by defining "Gross Revenues" so narrowly that cities will lose 10-15% of their Franchise Fees each year. The City Of Cleveland conservatively estimates that it may see a reduction of \$250,000 per year versus the fees it receives under its current Cable Television Franchise.

The Bill also greatly restricts Local Authorities' ability to Audit Video Services Providers to ensure that they properly calculate and timely Pay Franchise Fees. In the City Of Cleveland's experience, the process of auditing Cable Franchise Fee Payments has uniformly resulted in the discovery of significant underpayments by Cable Operators. For example, in the 2000 Cablevision/Adelphia Transfer Agreement, the City,

Cablevision and Adelphia had to resolve an underpayment of over \$900,000 in Franchise Fees by Cablevision. In 2005, the City conducted a multi-year audit of Adelphia's Franchise Fee Payments and discovered underpayments of over \$250,000.

The changes proposed by Senate Bill 117 are calculated solely to save money for Cable Operators by ensuring that there is no effective oversight of their payment of compensation. This is not a proper legislative purpose and is contrary to the public interest of City Of Cleveland Residents. There is no justification for this removal of effective local oversight and the changes proposed in this bill are contrary to the public interest of Cleveland residents and cable users throughout the State Of Ohio.

Under Current law, Local Franchise Agreements with cable providers traditionally include free installation and cable television service to local community centers, schools, and Libraries. In the City Of Cleveland, free service is provided to over 250 locations, enabling those public facilities to receive news broadcasts, emergency messages, etc., at no charge. Similarly, in the agreement approving the transfer of the cable franchise from cablevision to Adelphia in 2000, The City of Cleveland successfully negotiated for Adelphia to make a significant grant to the Cleveland Foundation to train city residents in advanced telecommunications and computer use. The Grant led to the creation of over two dozen "Neighborhood Technology Centers" where Cleveland residents receive such training. In addition, the agreement required that the cable operator provide free cable modem high speed internet access to at least one Neighborhood Technology Center in each Cleveland's neighborhood ward, with volume discounts required for additional access locations. Together, these public benefits, negotiated and agreed to by the parties, helped the city make significant progress in extending broadband services and familiarity with such services into all city

neighborhoods, a meaningful step toward bridging the digital divide and helping city residents climb out of poverty. In addition, the teaching of these skills has only assisted the cable operator in marketing and expanding subscription to its services.

Senate Bill 117 prohibits each and every negotiated concession, leading inexorably to higher costs borne by the city of Cleveland, a reduction in services and benefits provided to neighborhoods and residents, and further neglect of urban neighborhood vitally in need of communications investments. Under Senate Bill 117, the city has no authority to protect neighborhoods and residents during cable franchise negotiations, with such decisions left, instead to the discretion of the cable service providers who must certainly justify to shareholders any expenditure that are not Legally required.

These losses will have a palpable negative impact on city of Cleveland residents and is a mere portion of the reasons why Mayor Jackson strenuously Opposes SB 117.

Again, on behalf of Mayor Jackson and the citizens of the city of Cleveland, thank you for the opportunity to address you today.