

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 490

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO POWERS OF MUNICIPAL CORPORATIONS; AMENDING CHAPTER 3, TITLE 50,  
2 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-346, IDAHO CODE, TO PRO-  
3 VIDE FOR CITY AUTHORITY TO ESTABLISH PROVISIONS REGARDING A CITY COMMU-  
4 NICATIONS SERVICE.  
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6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Chapter 3, Title 50, Idaho Code, be, and the same is  
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
9 ignated as Section 50-346, Idaho Code, and to read as follows:

10 50-346. COMMUNICATIONS SERVICE. (1) A city shall have the authority to  
11 establish, create, develop, acquire, finance, construct, equip, lease, own,  
12 maintain, and operate a communications network and offer communications  
13 service within the corporate limits of the city.

14 (2) In offering communications service, a city-owned communications  
15 service provider:

16 (a) Shall establish a separate enterprise fund for the provision of  
17 communications service and shall use the enterprise fund to separately  
18 account for revenues, expenses, property, and source of investment mon-  
19 eys associated with the provision of communications service. The city  
20 shall not subsidize the communications enterprise fund and the provi-  
21 sion of communications service with funds, the provision of services,  
22 goods, personnel, in-kind exchanges, or other things of value from any  
23 other noncommunications service, operation, or other revenue source,  
24 including but not limited to any personnel, funds, or revenue gener-  
25 ated from electric, gas, water, sewer, or garbage. The city shall not  
26 price any communications service below the cost of providing the ser-  
27 vice and shall annually remit to the general fund of the city an amount  
28 equivalent to all local taxes or fees a private communications service  
29 provider would be required to pay the city and the county in which the  
30 city is located.

31 (b) Shall not require any person, including residents of a particular  
32 development, to use or subscribe to any communications service provided  
33 by the city-owned communications service provider or exercise its power  
34 or authority in any area, including zoning or land-use regulation, to  
35 withhold or delay the provision of communications service by private  
36 communications providers; shall not use city resources that are not al-  
37 located for cost-accounting purposes to the city-owned communications  
38 service to promote city-owned communications service in competition  
39 with private service providers; and shall not require city employees,  
40 officers, or contractors to purchase city-owned communications ser-  
41 vices.

1 (c) Shall provide nondiscriminatory access to private communi-  
2 cations service providers on a first-come, first-served basis to  
3 rights-of-way, poles, or conduits owned, leased, or operated by the  
4 city, unless the facilities have insufficient capacity for the access  
5 and additional capacity cannot reasonably be added to the facilities.  
6 For purposes of this paragraph, "nondiscriminatory access" means that,  
7 at a minimum, access shall be granted on the same terms and conditions as  
8 that given to a city-owned communications service provider.

9 (d) Shall demonstrate compliance with the provisions of this section  
10 by commissioning an independent audit in accordance with generally ac-  
11 cepted accounting principles that reflects the full cost of providing  
12 the communications service, including all direct and indirect costs.

13 (e) Shall not directly or indirectly utilize the Idaho regional opti-  
14 cal network as part of its communications network to provide city-owned  
15 communications service.

16 (f) Shall not acquire by eminent domain the facilities or other prop-  
17 erty of any other communications service provider to offer communica-  
18 tions services.

19 (3) In funding the construction of a communications network, a city may  
20 not fund such construction of a communications network pursuant to the local  
21 improvement district code, chapter 17, title 50, Idaho Code.

22 (4) As used in the section:

23 (a) "City-owned communications service provider" means a city that  
24 provides communications service using a communications network.

25 (b) "Communications network" means a wired or wireless network for the  
26 provision of communications service.

27 (c) "Communications service" means the provision of cable, video pro-  
28 gramming, telecommunications, broadband, data, data transport, data  
29 transmission, or high-speed internet access service for a fee, regard-  
30 less of the technology used to deliver the service.