

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY

### BOARD OF COMMISSIONERS

**MEETING DATE:** 6 September 2005  
**SUBJECT:** Increase of local cable franchise fee  
**ATTACHMENT(S):** Amended Cable Franchise Fee Ordinance (H.C.C. §74-5)

**SUMMARY OF REQUEST:**

The newly adopted North Carolina budget (Session Law 2005-276, formerly Senate Bill 622) increases the reach of North Carolina's sales and use tax to include, among other things, payments to local cable television companies. The tax rate on these payments is the "combined general rate" of tax, currently seven percent (7%). However, cable companies are granted a credit against this tax for franchise fees paid to local governments, up to a total of five percent (5%).

The current franchise fee rate payable to Henderson County under the Henderson County Cable Television Ordinance (Chapter 74 of the Henderson County Code) is three percent (3%) of each franchisee's gross revenues. Under the current state of affairs, the State would receive a windfall of two percent of Mediacom's<sup>1</sup> gross revenues.

Proposed is a draft amendment to the Cable Television Ordinance, which would increase the franchisees' fees to five percent (5%) of gross revenues. Only one sentence of the ordinance is changed, shown as follows:

The grantee shall pay to the County during the life of the franchise a sum equal to five percent (5%) of the gross annual revenues per year in the areas of the County's jurisdiction pursuant to § 74-1 of this chapter.

The adoption of this amendment would not increase the bills to Henderson County taxpayers. They will pay seven percent, either as franchise fee or as sales and use tax, regardless of your action. The adoption of this ordinance will only affect the recipient (Henderson County, versus the State of North Carolina) of a portion of that money.<sup>2</sup>

**COUNTY MANAGER RECOMMENDATION/BOARD ACTION REQUESTED:**

The County manager supports this proposal. County staff will present further information on this matter.

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<sup>1</sup> Note that while this ordinance applies to both cable television franchises granted by the County, the franchise now held by Northland Premier Cable Limited Partnership was granted prior to the adoption of the current ordinance, and already calls for a franchise fee of five percent (5%).

<sup>2</sup> The Board should also note that there is a significant discrepancy in the number of subscribers Mediacom reports as non-residents of municipalities in Henderson County (from whom franchise fees should go to Henderson County and not the municipality) on certain documents obtained from Mediacom. Your cable franchise advisory committee is attempting to rectify this discrepancy, which will likely result in more revenue to Henderson County, and less to at least some municipalities (by way of example, one municipality appears to be listed (and paid franchise fee) by Mediacom on its franchise fee reports as having more subscription accounts than there are actual households within the municipality).

**AN ACT AMENDING THE HENDERSON COUNTY CABLE TELEVISION ORDINANCE  
TO INCREASE CABLE TELEVISION FRANCHISE FEES**

WHEREAS, the State of North Carolina has enacted, as a part of its budget bill (Session Law 2005-276), a sales and use tax applicable to cable television and related fees paid by subscribers to cable television companies, including those granted franchises by Henderson County; and,

WHEREAS, the enactment by the State as mentioned above grants each cable television company a credit for franchise fees paid to local governments, including Henderson County; and,

WHEREAS, the amendment of the Henderson County Cable Television Ordinance herein will not increase the actual amount paid by subscribers to the cable television companies franchised by Henderson County.

NOW, THEREFORE, BE IT ORDAINED as follows:

1. That Section 74-5 of the Henderson County Code is hereby amended, by striking the same, and inserting the following in lieu thereof:

A. General payment. The grantee shall pay to the County during the life of the franchise a sum equal to five percent (5%) of the gross annual revenues per year in the areas of the County's jurisdiction pursuant to § 74-1 of this chapter. Said sum shall be paid quarterly and within 30 days from the end of each quarter. The grantee shall file with the county annually within 60 days after the expiration of the grantee's fiscal year a financial statement prepared according to generally accepted accounting procedures and certified by the chief financial officer of the grantee showing in detail the gross annual revenues per year in the areas of the county's jurisdiction pursuant to § 74-1 of this chapter during the preceding quarters. It shall be the duty of grantee to pay to the county within 60 days after the time for filing such statement the sum, if any, due and not paid during the preceding quarters. For purposes of the franchise, all payments thereunder shall be made to the Henderson County Finance Officer. In the event that any payment is not made on or before the applicable date fixed in the franchise agreement, interest on such payment shall apply from such date at a rate of 18% annually.

2. That this action is effective 1 October 2005.

**DULY ADOPTED BY THE HENDERSON COUNTY BOARD OF COMMISSIONERS**, this the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: \_\_\_\_\_  
WILLIAM MOYER, Chairman

ATTEST:

\_\_\_\_\_  
CLERK TO THE BOARD

[SEAL]