**A** **BILL**

TO AMEND CHAPTER 12, TITLE 58, SOUTH CAROLINA CODE OF LAWS, 1976, BY ADDING SECTION 58‑12‑550, SO AS TO AUTHORIZE COUNTY GOVERNMENT TO DETERMINE THE DEMAND MARKET AREA AND FOR NOTICE OF ITS DETERMINATION TO THE NIELSON COMPANY, THE FEDERAL COMMUNICATIONS COMMISSION AND ITS LEGISLATIVE DELEGATION; TO AMEND CHAPTER 12, TITLE 58 BY ADDING SECTION 58‑12‑570, SO AS TO PROVIDE A CAUSE OF ACTION FOR ANY BUSINESS WHO SUFFERS ECONOMIC DAMAGE AS A RESULT OF THE DETERMINATION OF THE DEMAND MARKET AREA, OTHER THAN THE COUNTY GOVERNMENT IN WHICH THE BUSINESS IS LOCATED; TO AMEND SECTION 4‑9‑30, SO AS TO ADD DETERMINATION OF A DEMAND MARKET AREA TO THE LIST OF ENUMERATED POWERS FOR COUNTY GOVERNMENT; AND TO AMEND SECTION 4‑9‑1030, SO AS TO ADD DETERMINATION OF A DEMAND MARKET AREA TO THE LIST OF DUTIES OF A COUNTY BOARD OF COMMISSIONERS.

Whereas, the General Assembly finds:

Through the past several decades, television has transformed from a luxury to a dominating presence in American society.

Although often regarded as a form of entertainment, television is an effective means of rapid communication among the masses.

Television provides news regarding local matters, such as current events, weather, alerts and warnings, to residents and businesses. In addition, television impacts local commerce by way of advertisements for local businesses and services.

Television’s ability to reach and affect residents and businesses in a community “en masse” is unsurpassed by other forms of communication

As the prevalence of television has grown, so have the interests of entities outside of local communities to utilize television for their own economic interests while disregarding the needs and wants of the local community’s residents and businesses.

Today’s technology enables communication to be distributed through television in various forms, including airwaves, satellite and cable. Any methodology purporting to determine television viewer rating that does not account for the various forms of modern technology should be disregarded since it fails to provide accurate information.

Local government is in a better position than outside entities, including the federal government and international corporations, to determine the needs and wants of the local community’s residents and businesses.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 12, Title 58 of the 1976 Code is amended by adding:

“Section 58‑12‑550. A county’s governing body may determine if the county is placed within the correct demand market area. In the event county government determines that county residents and businesses are disadvantaged or could be disadvantaged in any manner by a third party’s assignment of the county’s demand market area, the county government may take the following action:

(1) place the county in another demand market area; or

(2) divide the county among demand market areas.

Upon a determination that the county should be placed in another demand market area, either in its entirety or divided among demand market areas, the county must send written notice of its determination to the Nielsen Company and the Federal Communications Commission. This notice must include a description of the disadvantages faced by the county as a result of the original demand market area assignment and the county’s intent to reassign the demand market area. A copy of this notice must also be provided to the county’s legislative delegation.”

SECTION 2. Chapter 12, Title 58 of the 1976 Code is amended by adding:

“Section 58‑12‑570. Any business who suffers economic damage as a result of the determination of demand market area by an entity, other than the county government in which the business is located, may recover up to three times the amount of economic damages, as well as all costs of litigation, including reasonable attorney fees. Economic damage may include, but is not limited to: (i) costs of advertising in more than one market demand area in order to reach the audience within the county the business is located, as well as adjoining counties; and (ii) any loss of revenue resulting from the business’ inability to advertise on television in the county within which the business is located as well as adjoining counties, due to any prohibition on retransmission.”

SECTION 3. Section 4‑9‑30(17) of the 1976 Code is amended to read:

“(17) to determine if the county, either in whole or in part, should be placed in a different demand market area, pursuant to Section 58‑12‑550;

~~(17)~~(18) to exercise such other powers as may be authorized for counties by the general law. The governing body of any county shall not create a special tax district, other than watershed district, any portion of which falls within the corporate boundaries of a municipality, except upon the concurrence of the governing body of the municipality.”

SECTION 4. Section 4‑9‑1030(k) of the 1976 Code is amended to read:

“(k) The determination of which demand market area the county should be placed, either in whole or in part, pursuant to Section 58‑12‑550.

~~(k)~~(l) The performance of such other acts necessary to carry out its responsibilities.

~~(l)~~(m) The determination of its own rules and order of business.”

SECTION 5. This act takes effect upon approval by the Governor.

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