

Bill No. CS/CS/HB 529 (c2)

Barcode 171772

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Constantine moved the following amendment:

Senate Amendment (with title amendment)

On lines 381 - 685, delete those lines

and insert: the selection or use of such video programming or other programming service.

(2) "Cable service provider" means a person that provides cable service over a cable system.

(3) "Cable system" means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community, but such term does not include:

(a) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(b) A facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility or facilities use any

1 public right-of-way;

2 (c) A facility that serves subscribers without using
3 any public right-of-way;

4 (d) A facility of a common carrier that is subject, in
5 whole or in part, to the provisions of Title II of the federal
6 Communications Act of 1934 except that such facility shall be
7 considered a cable system other than for purposes of 47 U.S.C.
8 Section 541(c) to the extent such facility is used in the
9 transmission of video programming directly to subscribers,
10 unless the extent of such use is solely to provide interactive
11 on-demand services;

12 (e) Any facilities of any electric utility used solely
13 for operating its electric utility systems; or

14 (f) An open video system that complies with 47 U.S.C.
15 Section 573.

16 (4) "Certificateholder" means a cable or video service
17 provider that has been issued and holds a certificate of
18 franchise authority from the department.

19 (5) "Department" means the Department of State.

20 (6) "Franchise" means an initial authorization or
21 renewal of an authorization, regardless of whether the
22 authorization is designated as a franchise, permit, license,
23 resolution, contract, certificate, agreement, or otherwise, to
24 construct and operate a cable system or video service provider
25 network facilities in the public right-of-way.

26 (7) "Franchise authority" means any governmental
27 entity empowered by federal, state, or local law to grant a
28 franchise.

29 (8) "Incumbent cable service provider" means a cable
30 or video service provider providing cable or video service on
31 July 1, 2007.

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1 (9) "Public right-of-way" means the area on, below, or
 2 above a public roadway, highway, street, sidewalk, alley, or
 3 waterway, including, without limitation, a municipal, county,
 4 state, district, or other public roadway, highway, street,
 5 sidewalk, alley, or waterway.

6 (10) "Video programming" means programming provided
 7 by, or generally considered comparable to programming provided
 8 by, a television broadcast station as set forth in 47 U.S.C.
 9 s. 522(20).

10 (11) "Video service" means video programming services,
 11 including cable services, provided through wireline facilities
 12 located at least in part in the public rights-of-way without
 13 regard to delivery technology, including Internet protocol
 14 technology. This definition does not include any video
 15 programming provided by a commercial mobile service provider
 16 as defined in 47 U.S.C. s. 332(d), video programming provided
 17 as part of, and via a service that enables end users to access
 18 content, information, electronic mail, or other services
 19 offered over the public Internet.

20 (12) "Video service provider" means an entity
 21 providing video service.

22 610.104 State authorization to provide cable or video
 23 service.--

24 (1) An entity or person seeking to provide cable or
 25 video service in this state after July 1, 2007, shall file an
 26 application for a state-issued certificate of franchise
 27 authority with the department as required by this section.

28 (2) An applicant for a state-issued certificate of
 29 franchise authority to provide cable or video service shall
 30 submit to the Department of State an application that
 31 contains:

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1 (a) The official name of the cable or video service
2 provider.

3 (b) The street address of the principal place of
4 business of the cable or video service provider.

5 (c) The federal employer identification number or the
6 Department of State's document number.

7 (d) The name, address, and telephone number of an
8 officer, partner, owner, member, or manager as a contact
9 person for the cable or video service provider to whom
10 questions or concerns may be addressed.

11 (e) A duly executed affidavit signed by an officer,
12 partner, owner, or managing member affirming and containing:

13 1. That the applicant is fully qualified under the
14 provisions of this chapter to file an application and
15 affidavit for a certificate of franchise authority.

16 2. That the applicant has filed or will timely file
17 with the Federal Communications Commission all forms required
18 by that agency in advance of offering cable or video service
19 in this state.

20 3. That the applicant agrees to comply with all
21 applicable federal and state laws and regulations, to the
22 extent such state laws and rules are not in conflict with or
23 superseded by the provisions of this chapter or other
24 applicable state law.

25 4. That the applicant agrees to comply with all state
26 laws and rules and municipal and county ordinances and
27 regulations regarding the placement and maintenance of
28 communications facilities in the public rights-of-way that are
29 generally applicable to providers of communications services
30 in accordance with s. 337.401.

31 5. A description of the service area for which the

1 applicant seeks a certificate of franchise authority provided
 2 on a municipal or countywide basis. The description may be
 3 provided in a manner that does not disclose competitively
 4 sensitive information. Notwithstanding the foregoing:

5 a. For incumbent cable or video service providers that
 6 have existing local franchise agreements, the service area
 7 shall be coextensive with the provider's service area
 8 description in the existing local franchise.

9 b. For applicants using telecommunications facilities
 10 to provide video services, the service area shall be described
 11 in terms of entire wire centers that may or may not be
 12 consistent with municipal or county boundaries except any
 13 portion of a specific wire center which will remain subject to
 14 an existing cable or video franchise agreement until the
 15 earlier of the agreement's expiration or termination.

16 6. The location of the applicant's principal place of
 17 business, the names of the applicant's principal executive
 18 officers, and a physical address sufficient for the purposes
 19 of chapter 48.

20 7. That the applicant will file with the department a
 21 notice of commencement of service within 5 business days after
 22 first providing service in each area described in subparagraph
 23 5.

24 8. A statement affirming that the applicant will
 25 notify the department of any change of address or contact
 26 person.

27 9. The applicant's system shall comply with the
 28 Federal Communications Commission's rules and regulations of
 29 the Emergency Alert System.

30 (3) Before the 10th business day after the department
 31 receives the application, the department shall notify the

1 applicant whether the application and affidavit described in
 2 subsection (3) are complete. If the department rejects the
 3 application and affidavit, the department shall specify with
 4 particularity the reasons for the rejection and permit the
 5 applicant to amend the application or affidavit to cure any
 6 deficiency. The department shall act upon the amended
 7 application or affidavit within 10 business days after the
 8 department's receipt of the amended application or affidavit.

9 (4) The department shall issue a certificate of
 10 franchise authority to the applicant before the 15th business
 11 day after receipt of an accepted application. The certificate
 12 of franchise authority issued by the department shall contain:

13 (a) The name of the certificateholder and its
 14 identification number.

15 (b) A grant of authority to provide cable or video
 16 service as requested in the application.

17 (c) A grant of authority to construct, maintain, and
 18 operate facilities through, upon, over, and under any public
 19 right-of-way or waters, subject to the applicable governmental
 20 permitting or authorization from the Board of Trustees of the
 21 Internal Improvement Trust Fund.

22 (d) A statement that the grant of authority is subject
 23 to lawful operation of the cable or video service by the
 24 applicant or its successor in interest.

25 (e) A statement that describes the service area for
 26 which this certificate of authority applies.

27 (f) A statement that includes the issuance date that
 28 shall be the effective date of the commencement of this
 29 authority.

30 (5) If the department fails to act on the accepted
 31 application within 30 business days after receiving the

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1 accepted application, the application shall be deemed approved
2 by the department without further action.

3 (6) A certificateholder that seeks to include
4 additional service areas in its current certificate shall file
5 an amendment to the certificate with the department. Such
6 amendment shall specify the name and address of the
7 certificateholder, the new service area or areas to be served,
8 consistent with subparagraph (2)(e)5., but need not be
9 coextensive with municipal or county boundaries, and the
10 effective date of commencement of operations in the new
11 service area or areas. Such amendment shall be filed with the
12 department within 5 business days after first providing
13 service in each such additional area.

14 (7) The certificate of franchise authority issued by
15 the department is fully transferable to any successor in
16 interest to the applicant to which the certificate is
17 initially granted. A notice of transfer shall be filed with
18 the department and the relevant municipality or county within
19 14 business days following the completion of such transfer.

20 (8) The certificate of franchise authority issued by
21 the department may be terminated by the cable or video service
22 provider by submitting notice to the department.

23 (9) An applicant may challenge a rejection of an
24 application by the department in a court of competent
25 jurisdiction through a petition for mandamus.

26 (10) In executing the provisions of this section, the
27 department shall function in a ministerial capacity accepting
28 information contained in the application and affidavit at face
29 value. The applicant shall ensure continued compliance with
30 all applicable business formation, registration, and taxation
31 provisions of law.

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1 (11) The application shall be accompanied by a
 2 one-time fee of \$10,000. A parent company may file a single
 3 application covering itself and all of its subsidiaries and
 4 affiliates intending to provide cable or video service in the
 5 service areas throughout the state as described in paragraph
 6 (3)(d), but the entity actually providing such service in a
 7 given area shall otherwise be considered the certificateholder
 8 under this act.

9 (12) Beginning 5 years after approval of the
 10 certificateholder's initial certificate of franchise issued by
 11 the department, and every 5 years thereafter, the
 12 certificateholder shall update the information contained in
 13 the original application for a certificate of franchise. At
 14 the time of filing the information update, the
 15 certificateholder shall pay a processing fee of \$1,000. Any
 16 certificateholder that fails to file the updated information
 17 and pay the processing fee on the 5-year anniversary dates
 18 shall be subject to cancellation of its state-issued
 19 certificate of franchise authority if, upon notice given to
 20 the certificateholder at its last address on file with the
 21 department, the certificateholder fails to file the updated
 22 information and pay the processing fee within 30 days after
 23 the date notice was mailed. The application and processing
 24 fees imposed in this section shall be paid to the Department
 25 of State for deposit into the Operating Trust Fund for
 26 immediate transfer by the Chief Financial Officer to the
 27 General Inspection Trust Fund of the Department of Agriculture
 28 and Consumer Services. The Department of Agriculture and
 29 Consumer Services shall maintain a separate account within the
 30 General Inspection Trust Fund to distinguish cable franchise
 31 revenues from all other funds. The application, any amendments

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1 to the certificate, or information updates must be accompanied
2 by a fee to the Department of State equal to that for filing
3 articles of incorporation pursuant to s. 607.0122(1).

4 610.105 Eligibility for state-issued franchise.--

5 (1) After July 1, 2007, an incumbent cable or video
6 service provider is immediately eligible at its option to
7 apply for a state-issued certificate of franchise authority
8 under this chapter and shall file a written notice with the
9 applicable municipality or county in which the provider
10 provides cable or video service simultaneously with any filing
11 with the department under this chapter. The applicable
12 municipal or county franchise is terminated under this section
13 on the date the department issues the state-issued certificate
14 of franchise authority.

15 (2) If an incumbent cable or video service provider
16 has been granted a state-issued certificate of franchise
17 authority that covers all or a portion of a municipality or
18 county, any obligation under any existing municipal or county
19 franchise that exceeds the obligations imposed on the
20 certificateholder in the area covered by the certificate shall
21 be against public policy and void.

22 610.106 Franchise fees prohibited.--Except as
23 otherwise provided in this chapter, the department may not
24 impose any taxes, fees, charges, or other impositions on a
25 cable or video service provider as a condition for the
26 issuance of a state-issued certificate of franchise authority.
27 No municipality or county may impose any taxes, fees, charges,
28 or other exactions on certificateholders in connection with
29 use of public right-of-way as a condition of a
30 certificateholder doing business in the municipality or
31 county, or otherwise, except such taxes, fees, charges, or

1 other exactions permitted by chapter 202, s. 337.401(6), or s.
2 610.117.

3 610.107 Buildout.--No franchising authority, state
4 agency, or political subdivision may impose any buildout,
5 system construction, or service deployment requirements on a
6 certificateholder. However, notwithstanding any other
7 provision of this act, in any jurisdiction in which there
8 exist two or more franchises which contain buildout
9 requirements and construction of facilities pursuant to those
10 franchises has begun before July 1, 2007, such buildout
11 requirements remain effective through the term of the
12 franchises.

13 610.108 Customer service standards.--

14 (1) All cable or video service providers shall comply
15 with customer service requirements in 47 C.F.R. s. 76.309(c).

16 (2) Any municipality or county that, as of January 1,
17 2007, has an office or department dedicated to responding to
18 cable or video service customer complaints may continue to
19 respond to such complaints until July 1, 2009. Beginning July
20 1, 2009, the Department of Agriculture and Consumer Services
21 shall have the sole authority to respond to all cable or video
22 service customer complaints. This provision does not permit
23 the municipality, county, or department to impose customer
24 service standards inconsistent with the requirements in 47
25 C.F.R. s. 76.309(c).

26 (3) The Department of Agriculture and Consumer
27 Services shall receive service quality complaints from
28 customers of a cable or video service provider and shall
29 address such complaints in an expeditious manner by assisting
30 in the resolution of such complaint between the complainant
31 and the cable or video service provider. The Department of

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1 Agriculture and Consumer Services may adopt any procedural
 2 rules pursuant to ss. 120.536(1) and 120.54 necessary to
 3 administer this section, but shall not have any authority to
 4 impose any customer service requirements inconsistent with
 5 those contained in 47 C.F.R. s. 76.309(c).

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8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 On lines 40 - 48, delete those lines

11

12 and insert:

13 activities; providing for incumbent cable
 14 service provider eligibility for state-issued
 15 franchises; providing for certain notice to
 16 municipal or county franchise authority;
 17 providing for termination of a municipal or
 18 county franchise; declaring certain additional
 19 obligations on a franchisee against public
 20 policy and void; prohibiting the department
 21 from imposing additional taxes, fees, or
 22 charges on a cable or video service provider to
 23 issue a certificate; prohibiting imposing
 24 buildout, construction, and deployment
 25 requirements on a certificateholder; imposing
 26 certain customer service requirements on cable
 27 service providers; allowing a municipality or
 28 county to respond to complaints for a time
 29 certain; requiring the

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