

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

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

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Senator Bennett moved the following amendment:

Senate Amendment (with title amendment)

On page 15, line 400 through page 25, line 685, delete those lines

and insert: whole or in part, to the provisions of Title II of the federal Communications Act of 1934 except that such facility shall be considered a cable system other than for purposes of 47 U.S.C. Section 541(c) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

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

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

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

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

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

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

10 (8) "Incumbent cable service provider" means a cable
 11 or video service provider providing cable or video service on
 12 July 1, 2007.

13 (9) "Public right-of-way" means the area on, below, or
 14 above a public roadway, highway, street, sidewalk, alley, or
 15 waterway, including, without limitation, a municipal, county,
 16 state, district, or other public roadway, highway, street,
 17 sidewalk, alley, or waterway.

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

22 (11) "Video service" means video programming services,
 23 including cable services, provided through wireline facilities
 24 located at least in part in the public rights-of-way without
 25 regard to delivery technology, including Internet protocol
 26 technology. This definition does not include any video
 27 programming provided by a commercial mobile service provider
 28 as defined in 47 U.S.C. s. 332(d), video programming provided
 29 as part of, and via a service that enables end users to access
 30 content, information, electronic mail, or other services
 31 offered over the public Internet.

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1 (12) "Video service provider" means an entity
2 providing video service.

3 610.104 State authorization to provide cable or video
4 service.--

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

9 (2) An applicant for a state-issued certificate of
10 franchise authority to provide cable or video service shall
11 submit to the Department of State an application that
12 contains:

13 (a) The official name of the cable or video service
14 provider.

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

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

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

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

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

28 2. That the applicant has filed or will timely file
29 with the Federal Communications Commission all forms required
30 by that agency in advance of offering cable or video service
31 in this state.

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1 3. That the applicant agrees to comply with all
 2 applicable federal and state laws and regulations, to the
 3 extent such state laws and rules are not in conflict with or
 4 superseded by the provisions of this chapter or other
 5 applicable state law.

6 4. That the applicant agrees to comply with all state
 7 laws and rules and municipal and county ordinances and
 8 regulations regarding the placement and maintenance of
 9 communications facilities in the public rights-of-way that are
 10 generally applicable to providers of communications services
 11 in accordance with s. 337.401.

12 5. A description of the service area for which the
 13 applicant seeks a certificate of franchise authority provided
 14 on a municipal or countywide basis. The description may be
 15 provided in a manner that does not disclose competitively
 16 sensitive information. Notwithstanding the foregoing:

17 a. For incumbent cable or video service providers that
 18 have existing local franchise agreements, the service area
 19 shall be coextensive with the provider's service area
 20 description in the existing local franchise.

21 b. For applicants using telecommunications facilities
 22 to provide video services, the service area shall be described
 23 in terms of entire wire centers that may or may not be
 24 consistent with municipal or county boundaries except any
 25 portion of a specific wire center which will remain subject to
 26 an existing cable or video franchise agreement until the
 27 earlier of the agreement's expiration or termination.

28 6. The location of the applicant's principal place of
 29 business, the names of the applicant's principal executive
 30 officers, and a physical address sufficient for the purposes
 31 of chapter 48.

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1 7. That the applicant will file with the department a
 2 notice of commencement of service within 5 business days after
 3 first providing service in each area described in subparagraph
 4 5.

5 8. A statement affirming that the applicant will
 6 notify the department of any change of address or contact
 7 person.

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

11 (3) Before the 10th business day after the department
 12 receives the application, the department shall notify the
 13 applicant whether the application and affidavit described in
 14 subsection (3) are complete. If the department rejects the
 15 application and affidavit, the department shall specify with
 16 particularity the reasons for the rejection and permit the
 17 applicant to amend the application or affidavit to cure any
 18 deficiency. The department shall act upon the amended
 19 application or affidavit within 10 business days after the
 20 department's receipt of the amended application or affidavit.

21 (4) The department shall issue a certificate of
 22 franchise authority to the applicant before the 15th business
 23 day after receipt of an accepted application. The certificate
 24 of franchise authority issued by the department shall contain:

25 (a) The name of the certificateholder and its
 26 identification number.

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

29 (c) A grant of authority to construct, maintain, and
 30 operate facilities through, upon, over, and under any public
 31 right-of-way or waters, subject to the applicable governmental

1 permitting or authorization from the Board of Trustees of the
2 Internal Improvement Trust Fund.

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

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

8 (f) A statement that includes the issuance date that
9 shall be the effective date of the commencement of this
10 authority.

11 (5) If the department fails to act on the accepted
12 application within 30 business days after receiving the
13 accepted application, the application shall be deemed approved
14 by the department without further action.

15 (6) A certificateholder that seeks to include
16 additional service areas in its current certificate shall file
17 an amendment to the certificate with the department. Such
18 amendment shall specify the name and address of the
19 certificateholder, the new service area or areas to be served,
20 consistent with subparagraph (2)(e)5., but need not be
21 coextensive with municipal or county boundaries, and the
22 effective date of commencement of operations in the new
23 service area or areas. Such amendment shall be filed with the
24 department within 5 business days after first providing
25 service in each such additional area.

26 (7) The certificate of franchise authority issued by
27 the department is fully transferable to any successor in
28 interest to the applicant to which the certificate is
29 initially granted. A notice of transfer shall be filed with
30 the department and the relevant municipality or county within
31 14 business days following the completion of such transfer.

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

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

7 (10) In executing the provisions of this section, the
8 department shall function in a ministerial capacity accepting
9 information contained in the application and affidavit at face
10 value. The applicant shall ensure continued compliance with
11 all applicable business formation, registration, and taxation
12 provisions of law.

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

21 (12) Beginning 5 years after approval of the
22 certificateholder's initial certificate of franchise issued by
23 the department, and every 5 years thereafter, the
24 certificateholder shall update the information contained in
25 the original application for a certificate of franchise. At
26 the time of filing the information update, the
27 certificateholder shall pay a processing fee of \$1,000. Any
28 certificateholder that fails to file the updated information
29 and pay the processing fee on the 5-year anniversary dates
30 shall be subject to cancellation of its state-issued
31 certificate of franchise authority if, upon notice given to

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1 the certificateholder at its last address on file with the
 2 department, the certificateholder fails to file the updated
 3 information and pay the processing fee within 30 days after
 4 the date notice was mailed. The application and processing
 5 fees imposed in this section shall be paid to the Department
 6 of State for deposit into the Operating Trust Fund for
 7 immediate transfer by the Chief Financial Officer to the
 8 General Inspection Trust Fund of the Department of Agriculture
 9 and Consumer Services. The Department of Agriculture and
 10 Consumer Services shall maintain a separate account within the
 11 General Inspection Trust Fund to distinguish cable franchise
 12 revenues from all other funds. The application, any amendments
 13 to the certificate, or information updates must be accompanied
 14 by a fee to the Department of State equal to that for filing
 15 articles of incorporation pursuant to s. 607.0122(1).

16 610.105 Eligibility for state-issued franchise.--

17 (1) After July 1, 2007, an incumbent cable or video
 18 service provider is immediately eligible at its option to
 19 apply for a state-issued certificate of franchise authority
 20 under this chapter and shall file a written notice with the
 21 applicable municipality or county in which the provider
 22 provides cable or video service simultaneously with any filing
 23 with the department under this chapter. The applicable
 24 municipal or county franchise is terminated under this section
 25 on the date the department issues the state-issued certificate
 26 of franchise authority.

27 (2) If an incumbent cable or video service provider
 28 has been granted a state-issued certificate of franchise
 29 authority that covers all or a portion of a municipality or
 30 county, any obligation under any existing municipal or county
 31 franchise that exceeds the obligations imposed on the

1 certificateholder in the area covered by the certificate shall
2 be against public policy and void.

3 610.106 Franchise fees prohibited.--Except as
4 otherwise provided in this chapter, the department may not
5 impose any taxes, fees, charges, or other impositions on a
6 cable or video service provider as a condition for the
7 issuance of a state-issued certificate of franchise authority.
8 No municipality or county may impose any taxes, fees, charges,
9 or other exactions on certificateholders in connection with
10 use of public right-of-way as a condition of a
11 certificateholder doing business in the municipality or
12 county, or otherwise, except such taxes, fees, charges, or
13 other exactions permitted by chapter 202, s. 337.401(6), or s.
14 610.117.

15 610.107 Buildout.--No franchising authority, state
16 agency, or political subdivision may impose any buildout,
17 system construction, or service deployment requirements on a
18 certificateholder.

19 610.108 Customer service standards.--

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

22 (2) Any municipality or county that, as of January 1,
23 2007, has an office or department dedicated to responding to
24 cable or video service customer complaints may continue to
25 respond to such complaints until July 1, 2009. Beginning July
26 1, 2009, the Department of Agriculture and Consumer Services
27 shall have the sole authority to respond to all cable or video
28 service customer complaints. This provision does not permit
29 the municipality, county, or department to impose customer
30 service standards inconsistent with the requirements in 47
31 C.F.R. s. 76.309(c).

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1 (3) The Department of Agriculture and Consumer
2 Services shall receive service quality complaints from
3 customers of a cable or video service provider and shall
4 address such complaints in an expeditious manner by assisting
5 in the resolution of such complaint between the complainant
6 and the cable or video service provider. The Department of
7 Agriculture and Consumer Services may adopt any procedural
8 rules pursuant to ss. 120.536(1) and 120.54 necessary to
9 administer this section, but shall not have any authority to
10 impose any customer service requirements inconsistent with
11 those contained in 47 C.F.R. s. 76.309(c).

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

15 And the title is amended as follows:

16 On page 2, lines 40 through 48, delete

17

18 and insert:

19 activities; providing for incumbent cable
20 service provider eligibility for state-issued
21 franchises; providing for certain notice to
22 municipal or county franchise authority;
23 providing for termination of a municipal or
24 county franchise; declaring certain additional
25 obligations on a franchisee against public
26 policy and void; prohibiting the department
27 from imposing additional taxes, fees, or
28 charges on a cable or video service provider to
29 issue a certificate; prohibiting imposing
30 buildout, construction, and deployment
31 requirements on a certificateholder; imposing

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1 certain customer service requirements on cable
2 service providers; allowing a municipality or
3 county to respond to complaints for a time
4 certain; requiring the
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