

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

Barcode 770310

	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 14, line 381 through page 25, line 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

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1 more multiple-unit dwellings under common ownership, control,  
2 or management, unless such facility or facilities use any  
3 public right-of-way;

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

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

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

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

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

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

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

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

31 (8) "Incumbent cable service provider" means a cable

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1 or video service provider providing cable or video service on  
2 July 1, 2007.

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

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

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

22 (12) "Video service provider" means an entity  
23 providing video service.

24 610.104 State authorization to provide cable or video  
25 service.--

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

30 (2) An applicant for a state-issued certificate of  
31 franchise authority to provide cable or video service shall

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1 submit to the Department of State an application that  
2 contains:

3 (a) The official name of the cable or video service  
4 provider.

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

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

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

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

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

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

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

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

1 in accordance with s. 337.401.

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

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

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

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

22 7. That the applicant will file with the department a  
23 notice of commencement of service within 5 business days after  
24 first providing service in each area described in subparagraph  
25 5.

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

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

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

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

15       (a) The name of the certificateholder and its  
16 identification number.

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

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

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

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

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

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1       (5) If the department fails to act on the accepted  
2 application within 30 business days after receiving the  
3 accepted application, the application shall be deemed approved  
4 by the department without further action.

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

16       (7) The certificate of franchise authority issued by  
17 the department is fully transferable to any successor in  
18 interest to the applicant to which the certificate is  
19 initially granted. A notice of transfer shall be filed with  
20 the department and the relevant municipality or county within  
21 14 business days following the completion of such transfer.

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

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

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

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1 all applicable business formation, registration, and taxation  
2 provisions of law.

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

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

1 General Inspection Trust Fund to distinguish cable franchise  
 2 revenues from all other funds. The application, any amendments  
 3 to the certificate, or information updates must be accompanied  
 4 by a fee to the Department of State equal to that for filing  
 5 articles of incorporation pursuant to s. 607.0122(1).

6 610.105 Eligibility for state-issued franchise.--

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

17 (2) If an incumbent cable or video service provider

18 has been granted a state-issued certificate of franchise  
 19 authority that covers all or a portion of a municipality or  
 20 county, any obligation under any existing municipal or county  
 21 franchise that exceeds the obligations imposed on the  
 22 certificateholder in the area covered by the certificate shall  
 23 be against public policy and void.

24 610.106 Franchise fees prohibited.--Except as

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

1 certificateholder doing business in the municipality or  
 2 county, or otherwise, except such taxes, fees, charges, or  
 3 other exactions permitted by chapter 202, s. 337.401(6), or s.  
 4 610.117.

5 610.107 Buildout.--No franchising authority, state  
 6 agency, or political subdivision may impose any buildout,  
 7 system construction, or service deployment requirements on a  
 8 certificateholder.

9 610.108 Customer service standards.--

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

12 (2) Any municipality or county that, as of January 1,  
 13 2007, has an office or department dedicated to responding to  
 14 cable or video service customer complaints may continue to  
 15 respond to such complaints until July 1, 2009. Beginning July  
 16 1, 2009, the Department of Agriculture and Consumer Services  
 17 shall have the sole authority to respond to all cable or video  
 18 service customer complaints. This provision does not permit  
 19 the municipality, county, or department to impose customer  
 20 service standards inconsistent with the requirements in 47  
 21 C.F.R. s. 76.309(c).

22 (3) The Department of Agriculture and Consumer  
 23 Services shall receive service quality complaints from  
 24 customers of a cable or video service provider and shall  
 25 address such complaints in an expeditious manner by assisting  
 26 in the resolution of such complaint between the complainant  
 27 and the cable or video service provider. The Department of  
 28 Agriculture and Consumer Services may adopt any procedural  
 29 rules pursuant to ss. 120.536(1) and 120.54 necessary to  
 30 administer this section, but shall not have any authority to  
 31 impose any customer service requirements inconsistent with

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1 those contained in 47 C.F.R. s. 76.309(c).

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

5 And the title is amended as follows:

6 On page 2, lines 40 through 48, delete

7

8 and insert:

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

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