

Bill No. CS for SB 998

Barcode 050740

CHAMBER ACTION

Senate

House

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The Committee on Community Affairs (Garcia) recommended the following amendment:

**Senate Amendment (with directory and title amendments)**

On page 16, line 27, through  
page 24, line 31, delete those lines

and insert:

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

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

610.104 State authorization to provide cable or video

1 service.--

2       (1) An entity or person seeking to provide cable or  
3 video service in this state after July 1, 2007, shall file an  
4 application for a state-issued certificate of franchise  
5 authority with the department as required by this section. An  
6 entity or person providing cable or video service under an  
7 unexpired franchise agreement with a municipality or county as  
8 of July 1, 2007, is not subject to this subsection with  
9 respect to providing service in such municipality or county  
10 until the franchise agreement expires. An entity or person  
11 providing cable or video service may seek authorization from  
12 the department to provide service in areas where the entity or  
13 person currently does not have an existing franchise agreement  
14 as of July 1, 2007.

15       (2) An applicant for a state-issued certificate of  
16 franchise authority to provide cable or video service shall  
17 submit to the Department of State an application that  
18 contains:

19       (a) The official name of the cable or video service  
20 provider.

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

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

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

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

31       1. That the applicant is fully qualified under the

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1 provisions of this chapter to file an application and  
2 affidavit for a certificate of franchise authority.

3 2. That the applicant has filed or will timely file  
4 with the Federal Communications Commission all forms required  
5 by that agency in advance of offering cable or video service  
6 in this state.

7 3. That the applicant agrees to comply with all  
8 applicable federal and state laws and regulations, to the  
9 extent such state laws and rules are not in conflict with or  
10 superseded by the provisions of this chapter or other  
11 applicable state law.

12 4. That the applicant agrees to comply with all state  
13 laws and rules and municipal and county ordinances and  
14 regulations regarding the placement and maintenance of  
15 communications facilities in the public rights-of-way that are  
16 generally applicable to providers of communications services  
17 in accordance with s. 337.401.

18 5. A description of the service area for which the  
19 applicant seeks a certificate of franchise authority, provided  
20 on a municipal or countywide basis. The description may be  
21 provided in a manner that does not disclose competitively  
22 sensitive information. For existing incumbent cable or video  
23 service providers that have existing communications  
24 facilities, the service area shall be coextensive with the  
25 provider's existing network boundaries within the political  
26 boundaries of the local jurisdiction where video services are  
27 provided. For applicants using telecommunications facilities  
28 to provide video services, the service area shall be  
29 coextensive with all of the provider's wire centers or  
30 exchanges within the political boundaries of the local  
31 jurisdiction where video services are provided.

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1           6. The location of the applicant's principal place of  
2 business, the names of the applicant's principal executive  
3 officers, and a physical address sufficient for the purposes  
4 of chapter 48.

5           7. That the applicant will file with the department a  
6 notice of commencement of service within 5 business days after  
7 first providing service in each area described in subparagraph  
8 5.

9           8. A statement affirming that the applicant will  
10 notify the department of any change of address or contact  
11 person.

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

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

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

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

30           (c) A grant of authority to construct, maintain, and  
31 operate facilities through, upon, over, and under any public

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1 right-of-way or waters.

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

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

7 (f) A statement that includes the effective date of  
8 the commencement of this authority.

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

13 (6) A certificateholder that seeks to include  
14 additional service areas in its current certificate shall file  
15 an amendment to the certificate with the department. Such  
16 amendment shall specify the name and address of the  
17 certificateholder, the new service area or areas to be served,  
18 and the effective date of commencement of operations in the  
19 new service area or areas. Such amendment shall be filed with  
20 the department within 5 business days after first providing  
21 service in each such additional area.

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

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

31 (9) An applicant may challenge a rejection of an

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1 application by the department in a court of competent  
2 jurisdiction through a petition for mandamus.

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

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

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

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1 fees imposed in this section shall be paid to the Department  
 2 of State for deposit into the Operating Trust Fund for  
 3 immediate transfer by the Chief Financial Officer to the  
 4 General Inspection Trust Fund of the Department of Agriculture  
 5 and Consumer Services. The Department of Agriculture and  
 6 Consumer Services shall maintain a separate account within the  
 7 General Inspection Trust Fund to distinguish cable franchise  
 8 revenues from all other funds. The application, any amendments  
 9 to the certificate, or information updates must be accompanied  
 10 by a fee to the Department of State equal to that for filing  
 11 articles of incorporation pursuant to s. 607.0122(1).

12 610.105 Eligibility for state-issued franchise.--

13 (1) A cable or video service provider that has an  
 14 existing, unexpired franchise to provide cable or video  
 15 service with respect to a municipality or county as of July 1,  
 16 2007, is not eligible to apply for a state-issued certificate  
 17 of franchise authority under this chapter as to that  
 18 municipality or county until the expiration date of the  
 19 existing franchise agreement.

20 (2) For purposes of this section, a cable or video  
 21 service provider will be deemed to have or have had a  
 22 franchise to provide cable or video service in a specific  
 23 municipality or county if any affiliate or successor entity of  
 24 the cable or video service provider has or had an unexpired  
 25 franchise agreement granted by that specific municipality or  
 26 county as of July 1, 2007.

27 (3) The term "affiliate or successor entity" in this  
 28 section refers to an entity receiving, obtaining, or operating  
 29 under a franchise that directly or indirectly owns or  
 30 controls, is owned or controlled by, or is under common  
 31 ownership or control with the cable or video service provider.

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1       (4) Any cable or video service provider that has an  
2 existing, unexpired franchise to provide cable or video  
3 service with respect to a municipality or county as of July 1,  
4 2007, is not required to comply with the provisions of that  
5 franchise which relate to buildout or customer service  
6 standards, which are hereby expressly preempted by s. 610.107  
7 and s. 610.108, except that in any municipality or county  
8 which there exist franchises with an incumbent cable or video  
9 service provider, and one or more non-incumbent cable or  
10 service providers, and two or more of those franchises contain  
11 buildout requirements, such requirements shall remain  
12 effective for the term of the franchises.

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15 ===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====  
16 And the directory clause is amended as follows:

17           On page 14, line 16, delete the figure "610.106,"

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

22 And the title is amended as follows:

23           On page 1, line 15, through  
24           page 2, line 23, delete those lines

25  
26

and insert:

27           operate without such a franchise; amending s.  
28           337.4061, F.S.; revising definitions; creating  
29           ss. 610.102, 610.103, 610.104, 610.105,  
30           610.107, 610.108, 610.109, 610.112, 610.113,  
31           610.114, 610.115, 610.116, 610.117, 610.118,



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1 and 610.119, F.S.; designating the Department  
2 of State as the authorizing authority;  
3 providing definitions; requiring state  
4 authorization to provide cable and video  
5 services; providing requirements and  
6 procedures; providing for fees; providing  
7 duties and responsibilities of the Department  
8 of State; providing application procedures and  
9 requirements; providing for issuing  
10 certificates of franchise authority; providing  
11 eligibility requirements and criteria for a  
12 certificate; providing for amending a  
13 certificate; providing for transferability of  
14 certificates; providing for termination of  
15 certificates under certain circumstances;  
16 providing for challenging a department  
17 rejection of an application; providing that the  
18 department shall function in a ministerial  
19 capacity for certain purposes; providing for an  
20 application form; providing for an application  
21 fee; requiring certain information updates;  
22 providing for a processing fee; providing for  
23 cancellation upon notice that information  
24 updates and processing fees are not received;  
25 providing for an opportunity to cure; providing  
26 for transfer of such fees to the Department of  
27 Agriculture and Consumer Services; requiring  
28 the department to maintain a separate account  
29 for cable franchise revenues; providing for  
30 fees to the Department of State for certain  
31 activities; declaring certain additional

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1 obligations on a franchisee against public  
2 policy and void; prohibiting imposing  
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