

Bill No. CS for SB 998

Barcode 324716

CHAMBER ACTION

Senate

House

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The Committee on Community Affairs (Garcia) recommended the following **substitute for amendment** (604042):

Senate Amendment (with title amendment)

On page 26, line 1 through page 36, line 27, delete those lines

and insert: 610.109 Public, educational, and governmental access channels.--

(1) A certificateholder, not later than 90 days following a request by a municipality or county within whose jurisdiction the certificateholder is providing cable or video service, shall designate a sufficient amount of capacity on its network to allow the provision of public, educational, and governmental access channels for noncommercial programming as set forth in this section.

(2) A certificateholder shall designate a sufficient amount of capacity on its network to allow the provision of a comparable number of public, educational, and governmental access channels or capacity equivalent that a municipality or county has activated under the incumbent cable service

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1 provider's franchise agreement as of July 1, 2007. For the
 2 purposes of this section, a public, educational, or
 3 governmental channel is deemed activated if the channel is
 4 being used for public, educational, or governmental
 5 programming within the municipality or county. The
 6 municipality or county may request additional channels or
 7 capacity permitted under the incumbent cable service
 8 provider's franchise agreement as of July 1, 2007. A cable or
 9 video service provider shall locate any public, educational,
 10 or governmental access channel on any tier of service offered
 11 that is viewed by 100 percent of the provider's subscribers.

12 (3) If a municipality or county did not have public,
 13 educational or governmental access channels activated under
 14 the incumbent cable service provider's franchise agreement as
 15 of July 1, 2007, not later than 6 months following a request
 16 by the municipality or county within whose jurisdiction a
 17 certificateholder is providing cable or video service, the
 18 cable or video service provider shall furnish:

19 (a) Up to four public, educational, or governmental
 20 channels or capacity equivalent for a municipality with a
 21 population greater than 100,000 or a county with a population
 22 greater than 500,000.

23 (b) Up to three public, educational, or governmental
 24 channels or capacity equivalent for a municipality with a
 25 population of at least 50,000 or a county with a population of
 26 at least 100,000.

27 (c) Up to two public, educational, or governmental
 28 channels or capacity equivalent for a municipality with a
 29 population of less than 50,000 or a county with a population
 30 of less than 100,000.

31 (4) If a municipality or county has not used the

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1 number of access channels or capacity equivalent permitted by
2 subsection (3), access to the additional channels or capacity
3 equivalent allowed in subsection (3) shall be provided upon 6
4 months's written notice.

5 (5) The operation of any public, educational, or
6 governmental access channel or capacity equivalent provided
7 under this section shall be the responsibility of the
8 municipality or county receiving the benefit of such channel
9 or capacity equivalent, and a certificateholder bears only the
10 responsibility for the transmission of such channel content.
11 A certificateholder shall be responsible for providing the
12 connectivity to each public educational, or governmental
13 access channel distribution point.

14 (6) Where technically feasible, a certificateholder
15 and an incumbent cable service provider shall use reasonable
16 efforts to interconnect their networks for the purpose of
17 providing public, educational, and governmental programming.
18 Interconnection may be accomplished by direct cable, microwave
19 link, satellite, or other reasonable method of connection.
20 Certificateholders and incumbent cable service providers shall
21 negotiate in good faith and incumbent cable service providers
22 may not withhold interconnection of public, educational, and
23 governmental channels.

24 (7) A certificateholder is not required to
25 interconnect for, or otherwise to transmit, public,
26 educational, and governmental content that is branded with the
27 logo, name, or other identifying marks of another cable or
28 video service provider, and a municipality or county may
29 require a cable or video service provider to remove its logo,
30 name, or other identifying marks from public, educational, and
31 governmental content that is to be made available to another

1 provider.

2 (8) A municipality or county, that has activated at
3 least one public, educational, or governmental access channel
4 pursuant to this section, may require cable or video service
5 providers to remit PEG and I-Net support contributions in an
6 amount equal to a lump-sum or recurring per-subscriber funding
7 obligation to support public, educational, and governmental
8 access channels, institutional networks, or other related
9 costs as provided for in the incumbent's franchise that exists
10 prior to July 1, 2007. If a municipality or county has not
11 required cable or video service providers to remit PEG and
12 I-Net support contributions prior to July 1, 2007, a
13 municipality or county may require cable or video service
14 providers to remit PEG and I-Net support contributions not to
15 exceed that of an adjacent local government. If no adjacent
16 local government has required PEG and I-Net support
17 contributions, then the municipality or county may require
18 cable or video service providers to remit PEG and I-Net
19 support contributions consistent with a municipality or county
20 with comparable population.

21 (10) A court of competent jurisdiction shall have
22 exclusive jurisdiction to enforce any requirement under this
23 section.

24 610.112 Nondiscrimination by municipality or county.--

25 (1) A municipality or county shall allow a
26 certificateholder to install, construct, and maintain a
27 network within a public right-of-way and shall provide a
28 certificateholder with comparable, nondiscriminatory, and
29 competitively neutral access to the public right-of-way in
30 accordance with the provisions of s. 337.401. All use of a
31 public right-of-way by a certificateholder is nonexclusive.

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1 (2) A municipality or county may not discriminate
2 against a certificateholder regarding:

3 (a) The authorization or placement of a network in a
4 public right-of-way;

5 (b) Access to a building or other property; or

6 (c) Utility pole attachment terms and conditions.

7 610.113 Limitation on local authority.--

8 (1) A municipality or county may not impose additional
9 requirements on a certificateholder, including, but not
10 limited to, financial, operational, and administrative
11 requirements, except as expressly permitted by this chapter. A
12 municipality or county may not impose on activities of a
13 certificateholder a requirement:

14 (a) That particular business offices be located in the
15 municipality or county;

16 (b) Regarding the filing of reports and documents with
17 the municipality or county that are not required by state or
18 federal law and that are not related to the use of the public
19 right-of-way. Reports and documents other than schematics
20 indicating the location of facilities for a specific site that
21 are provided in the normal course of the municipality's or
22 county's permitting process, that are authorized by s. 337.401
23 for communications services providers, or that are otherwise
24 required in the normal course of such permitting process shall
25 not be considered related to the use of the public
26 right-of-way for communications service providers. A
27 municipality or county may not request information concerning
28 the capacity or technical configuration of a
29 certificateholder's facilities;

30 (c) For the inspection of a certificateholder's
31 business records; or

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1 (d) For the approval of transfers of ownership or
 2 control of a certificateholder's business, except that a
 3 municipality or county may require a certificateholder to
 4 provide notice of a transfer within a reasonable time.

5 (2) Notwithstanding any other provision of law, a
 6 municipality or county may require the issuance of a permit in
 7 accordance with and subject to s. 337.401 to a
 8 certificateholder that is placing and maintaining facilities
 9 in or on a public right-of-way in the municipality or county.
 10 In accordance with s. 337.402, the permit may require the
 11 permitholder to be responsible, at the permitholder's expense,
 12 for any damage resulting from the issuance of such permit and
 13 for restoring the public right-of-way to its original
 14 condition before installation of such facilities. The terms of
 15 the permit shall be consistent with construction permits
 16 issued to other providers of communications services placing
 17 or maintaining communications facilities in a public
 18 right-of-way.

19 610.114 Discrimination prohibited.--

20 (1) The purpose of this section is to prevent
 21 discrimination among potential residential subscribers.

22 (2) A video service provider may not deny access to
 23 service to any group of potential residential subscribers
 24 because of the race, income, or ethnicity of the residents in
 25 the local area in which the group resides.

26 (3) For purposes of determining whether a
 27 certificateholder has violated subsection (2), the
 28 certificateholder shall have a reasonable time to deploy
 29 service to customers within the service area designated under
 30 this act. Within 3 years after the date a certificateholder
 31 begins providing video service in a service area, the

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1 certificateholder shall provide access to video services to at
2 least 25 percent of the low-income households in that service
3 area. Within 5 years after the date a certificateholder begins
4 providing video service in a service area, the
5 certificateholder shall provide access to its video services
6 to at least 50 percent of the low-income households in that
7 service area.

8 (4) Except for satellite service, a video service
9 provider may satisfy the requirements of this section through
10 the use of alternative technology that offers service,
11 functionality, and content, that is demonstrably similar to
12 that provided through the provider's video service system. and
13 that may include a technology that does not require the use of
14 any public right-of-way. The technology used to comply with
15 this section shall include carrying public, education, and
16 government channels and other provisions required under this
17 act.

18 (5) A video service provider may apply to the
19 department for a waiver or extension of time to comply with
20 this section if any of the following apply:

21 (a) Access to public and private rights-of-way cannot
22 be obtained under reasonable terms and conditions.

23 (b) Developments or buildings are not subject to
24 competition because of existing exclusive service agreements.

25 (c) Developments or buildings are inaccessible using
26 reasonable technical solutions under commercially reasonable
27 terms and conditions.

28 (d) Customers reside in an area having a density of
29 fewer than 25 homes per mile from the nearest activated
30 distribution plant of the provider.

31 (e) Natural disasters.

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1 (f) Other factors beyond the control of the provider.

2 (6) The department may grant a waiver or extension
3 only if the provider has made substantial and continuous
4 effort to meet the requirements of this section. If an
5 extension is granted, the department shall establish a new
6 compliance deadline. If a waiver is granted, the department
7 shall specify the requirements waived.

8 (7) As used in this section, the term "low-income
9 household" means a household having an average annual
10 household income of less than \$35,000 as determined by the
11 most recent decennial census.

12 (8) Notwithstanding any other provision of this act, a
13 video service provider is not required to comply with, and the
14 department may not impose or enforce, any mandatory build-out
15 or deployment provisions or schedules, except those required
16 to comply with this section.

17 (9) The department or a court of competent
18 jurisdiction may take any action necessary to enforce this
19 section. An affected resident or applicable local government
20 on behalf of its residents may seek any available legal remedy
21 to address an alleged violation of this section.

22 (10) The Department of Agriculture and Consumer
23 Services shall adopt rules pursuant to ss. 120.536(1) and
24 120.54 to administer this section.

25 610.115 Compliance.--If a certificateholder is found
26 by a court of competent jurisdiction not to be in compliance
27 with the requirements of this chapter, the certificateholder
28 shall have a reasonable period of time, as specified by the
29 court, to cure such noncompliance.

30 610.116 Limitation.--Nothing in this chapter shall be
31 construed to give any local government or the department any

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1 authority over any communications service other than cable or
2 video services whether offered on a common carrier or private
3 contract basis.

4 610.117 Cable or video services for public
5 facilities.--

6 Upon request by a request by a municipality or county,
7 a certificateholder shall provide, within ninety days from
8 receipt of the request, complementary internet access, cable
9 or video service to public facilities, including, but not
10 limited to; K-12 schools, community colleges, public
11 libraries, public hospitals, public health clinics or
12 government buildings, to the extent such buildings are located
13 within 500 feet of the certificateholder's activated video
14 distribution plant. At the request of the municipality or
15 county, the certificateholder shall extend its distribution
16 plant to serve such buildings located more than 500 feet from
17 the certificateholder's distribution plant. In such
18 circumstances, the government entity owning or occupying the
19 building shall be responsible for the time and material costs
20 incurred in extending the distribution plant to within 500
21 feet adjacent to the building. The cable or video serve
22 provided pursuant to this section shall include, at a minimum,
23 the basic service tier and programming service tier as well as
24 any equipment required to provide those service tiers.

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

28 And the title is amended as follows:

29 On page 3, line 7, through page 4, line 9, delete those
30 lines

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1 and insert:

2 providing capital funding support; providing
3 for enforcement; providing requirements for and
4 limitations on counties and municipalities
5 relating to access to public right-of-way;
6 prohibiting counties and municipalities from
7 imposing additional requirements on
8 certificateholders; authorizing counties and
9 municipalities to require permits of
10 certificateholders relating to public
11 right-of-way; providing permit criteria and
12 requirements; prohibiting discrimination among
13 cable and video service subscribers; providing
14 for enforcement; providing requirements for a
15 request for enforcement; providing for a period
16 of time to cure certain noncompliance;
17 providing for the use of alternative
18 technology; authorizing waivers or extensions
19 of time to meet such requirements; providing a
20 definition; prohibiting certain mandatory
21 build-out or deployment provisions; providing
22 for enforcement and the adoption of rules;
23 clarifying local government and department
24 authority over communications services;
25 providing for an award of costs and attorney's
26 fees; providing for determinations of
27 violations; providing for enforcement of
28 compliance by certificateholders; providing
29 service requirements for

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