

Bill No. CS for SB 998

Barcode 604042

CHAMBER ACTION

Senate

House

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

Comm: RS  
04/18/2007 06:00 PM

.  
. .  
. .  
. .  
. .  
. .

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

**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

Bill No. CS for SB 998

Barcode 604042

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

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

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

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

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

30 (4) If a municipality or county has not used the  
31 number of access channels or capacity equivalent permitted by

Bill No. CS for SB 998

Barcode 604042

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

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

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

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

Bill No. CS for SB 998

Barcode 604042

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

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

23       610.112 Nondiscrimination by municipality or county.--

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

31       (2) A municipality or county may not discriminate

Bill No. CS for SB 998

Barcode 604042

1 against a certificateholder regarding:

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

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

5       (c) Utility pole attachment terms and conditions.

6       610.113 Limitation on local authority.--

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

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

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

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

31       (d) For the approval of transfers of ownership or

Bill No. CS for SB 998

Barcode 604042

1 control of a certificateholder's business, except that a  
2 municipality or county may require a certificateholder to  
3 provide notice of a transfer within a reasonable time.

4 (2) Notwithstanding any other provision of law, a  
5 municipality or county may require the issuance of a permit in  
6 accordance with and subject to s. 337.401 to a  
7 certificateholder that is placing and maintaining facilities  
8 in or on a public right-of-way in the municipality or county.

9 In accordance with s. 337.402, the permit may require the  
10 permitholder to be responsible, at the permitholder's expense,  
11 for any damage resulting from the issuance of such permit and  
12 for restoring the public right-of-way to its original  
13 condition before installation of such facilities. The terms of  
14 the permit shall be consistent with construction permits  
15 issued to other providers of communications services placing  
16 or maintaining communications facilities in a public  
17 right-of-way.

18 610.114 Discrimination prohibited.--

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

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

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

Bill No. CS for SB 998

Barcode 604042

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

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

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

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

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

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

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

30 (e) Natural disasters.

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

Bill No. CS for SB 998

Barcode 604042

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

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

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

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

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

24       610.115 Compliance.--If a certificateholder is found  
 25 by a court of competent jurisdiction not to be in compliance  
 26 with the requirements of this chapter, the certificateholder  
 27 shall have a reasonable period of time, as specified by the  
 28 court, to cure such noncompliance.

29       610.116 Limitation.--Nothing in this chapter shall be  
 30 construed to give any local government or the department any  
 31 authority over any communications service other than cable or



Bill No. CS for SB 998

Barcode 604042

1 video services whether offered on a common carrier or private  
2 contract basis.

3 610.117 Cable or video services for public  
4 facilities.--

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

24  
25

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

27 And the title is amended as follows:

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

30  
31

and insert:

Bill No. CS for SB 998

Barcode 604042

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

29  
30  
31