

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 4017 Cable and Video Services  
**SPONSOR(S):** Regulatory Affairs Committee; Rodrigues, R.  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	14 Y, 0 N	Whittier	Keating
2) Regulatory Affairs Committee	17 Y, 0 N, As CS	Whittier	Hamon

### SUMMARY ANALYSIS

In 2007, the Legislature created s. 610.119(1), F.S., which required the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to submit reports on the status of competition in the cable and video service industry by December 1, 2009, and December 1, 2014, to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and House of Representatives. Each report was required to include, by municipality and county, the number of cable and video service providers, the number of cable and video subscribers served, the number of areas served by fewer than two cable or video service providers, the trend in cable and video service prices, and the identification of any patterns of service as they impacted demographic and income groups. In October 2009, OPPAGA submitted the first report.

Also, in 2007, the Legislature created s. 610.119(2), F.S., which directed the Department of Agriculture and Consumer Services, with input from the Department of State, to make recommendations to the Legislature regarding the workload and staffing requirements associated with consumer complaints related to video and cable certificateholders and processing certificates of franchise authority, by January 15, 2008. These recommendations were submitted to the President of the Senate, the Speaker of the House, and the majority and minority leaders of the Senate and House of Representatives on January 15, 2008. Thus, this subsection is now obsolete.

CS/HB 4017 repeals s. 610.119, F.S., eliminating the requirement that OPPAGA complete and submit a report due this year and repealing the obsolete requirement that the Department of Agriculture and Consumer Services make recommendations to the Legislature by January 15, 2008.

There appears to be no fiscal impact on state or local governments.

The bill takes effect July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

In 2007, the Legislature designated the Department of State as the authority that issues statewide cable and video franchises. Local governmental authority to negotiate cable service franchises was removed. At that time, s. 610.119(1), F.S., was created to require the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to submit reports on the status of competition in the cable and video service industry by December 1, 2009, and December 1, 2014, to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and House of Representatives.

The report was to include, by each municipality and county, the following:

- The number of cable and video service providers,
- The number of cable and video subscribers served,
- The number of areas served by fewer than two cable or video service providers,
- The trend in cable and video service prices, and
- The identification of any patterns of service as they impacted demographic and income groups.

OPPAGA issued its first report in October 2009.<sup>1</sup> The summary of the report states:

The 2007 Consumer Choice Act provided for a statewide franchise for cable and video service providers and ended local government authority to negotiate franchise agreements. Several departments — State, Agriculture and Consumer Services, and Legal Affairs — have responsibilities related to the new law but none has regulatory authority. As many as 20 states also passed statewide franchise laws in recent years. However, little systematic information exists to demonstrate the effect of these laws.<sup>2</sup>

Since 2007, the Department of State has issued 26 state franchise certificates; most certificates were issued to existing cable or video service providers. However, two barriers prevent a comprehensive assessment of the effect of these franchises on competition for cable and video services: provider reluctance to share data and insufficient information provided in statewide franchise documents. In light of these difficulties, the Legislature may wish to consider amending s. 610.119(1), Florida Statutes, to modify study requirements or make changes that might lessen the industry concerns regarding a required December 2014 follow-up study on cable and video services competition.<sup>3</sup>

As required by federal law, the Federal Communications Commission prepares and publishes an annual report concerning the status of competition in the market for delivery of video programming.<sup>4</sup> The report is intended to measure progress toward the goals of increasing competition and diversity in multichannel video programming distribution, increasing the availability of satellite delivered programming, and spurring the development of communications technologies.<sup>5</sup> Among other things, the report addresses the number of service subscribers and market share among various market

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<sup>1</sup> Office of Program Policy Analysis & Governmental Accountability, *Benefits from Statewide Cable and Video Franchise Reform Remain Uncertain*, Report No. 09-35, October 2009.

<sup>2</sup> *Id.*, p. 1.

<sup>3</sup> *Id.*

<sup>4</sup> 47 U.S.C. s. 548(g)

<sup>5</sup> See *Fifteenth Report*, Federal Communications Commission, released July 22, 2013, in MB Docket No. 12-03, In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming.

segments and participants, including a comparison of competition in rural versus urban areas.<sup>6</sup> The report also addresses programming and consumer behavior patterns.

Also, in 2007, the Legislature created s. 610.119(2), F.S., which directed the Department of Agriculture and Consumer Services to make recommendations to the Legislature regarding the workload and staffing requirements associated with consumer complaints related to video and cable certificateholders, by January 15, 2008. The Department of State was required to provide to the Department of Agriculture and Consumer Services, for inclusion in the report, the workload requirements for processing the certificates of franchise authority. In addition, the Department of State was required to provide the number of applications filed for cable and video certificates of franchise authority and the number of amendments received to original applications for franchise certificate authority. This report was submitted to the President of the Senate, the Speaker of the House, and the majority and minority leaders of the Senate and House of Representatives on January 15, 2008.<sup>7</sup> Thus, this subsection is now obsolete.

### **Effect of Proposed Changes**

The bill repeals s. 610.119, F.S., removing from statute the requirement that OPPAGA submit reports, the latter of which is due by December 1, 2014, on the status of competition in the cable and video industry and that the Department of Agriculture and Consumer Services make recommendations to the Legislature regarding the workload and staffing requirements associated with consumer complaints related to video and cable certificateholders, by January 15, 2008.

#### **B. SECTION DIRECTORY:**

**Section 1.** Repeals s. 610.119, F.S., relating to reports required to be submitted to the Legislature concerning the cable and video service industry.

**Section 2.** Provides an effective date of July 1, 2014.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

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<sup>6</sup> *Id.* at 157.

<sup>7</sup> Letter to the Honorable Ken Pruitt, Senate President, from Charles H. Bronson, Commissioner of the Florida Department of Agriculture and Consumer Services (January 15, 2008) (on file with the Energy & Utilities Subcommittee).

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 27, 2014, the Regulatory Affairs Committee adopted an amendment that deletes an obsolete requirement for the Department of Agriculture and Consumer Services and the Department of State to make recommendations to the Legislature regarding the workload and staffing requirements associated with consumer complaints related to video and cable certificateholders, by January 15, 2008.

The bill was reported favorably as a committee substitute.

This analysis is drafted to the committee substitute.