

AMENDED IN ASSEMBLY MAY 31, 2006

AMENDED IN ASSEMBLY MAY 26, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

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california legislature—2005-06 regular session

**ASSEMBLY BILL**

**No. 2987**

**Introduced by Assembly Members Nunez and Levine  
(Principal coauthors: Assembly Members McCarthy and Plescia)**

February 24, 2006

An act to add Article 3.7 (commencing with Section 53058) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, and to amend Section 107.7 of the Revenue and Taxation Code, relating to cable and video service.

legislative counsel's digest

AB 2987, as amended, Nunez. Cable and video service.

Existing law provides that any city, county, or city and county may authorize by franchise or license the construction and operation of a community antenna television system and prescribe rules and regulations to protect the subscribers. Existing law provides that cable and video service providers comply with specified customer service standards and performance standards.

This bill would establish a procedure for the issuance of state franchises for the provision of video service, which would be defined to include cable service and open-video systems, that would be administered by the Department of Consumer Affairs. The department would be the sole franchising authority for state franchises to provide video services. The bill would require any person who seeks to

provide video service in this state to file an application with the department for a state franchise. Cities, counties, or cities and counties would receive state franchise fees for video services provided within their jurisdictions, based on gross revenues, pursuant to specified procedures. *The bill would also authorize local entities to establish a fee to support the capital costs of public, educational, and governmental access channel facilities, in the amount of either 1% of gross revenues or a preexisting fee, whichever is lower.* The bill would require these local agencies to permit the installation of networks by holders of state franchises and would preclude enforcement of standards by the local agencies. The bill would prescribe the extent of the obligation of state franchise holders to provide public, educational, and government channels. The bill would prescribe certain customer service and protection standards and penalties for material breaches of those standards. The bill would require any state franchise holder employing more than 750 employees to make an annual report of specified information to the department.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 3.7 (commencing with Section 53058) is  
2 added to Chapter 1 of Part 1 of Division 2 of Title 5 of the  
3 Government Code, to read:

4  
5 Article 3.7. The Digital Infrastructure and Video Competition  
6 Act of 2006

7  
8 53058. This act shall be known and may be cited as the  
9 Digital Infrastructure and Video Competition Act of 2006.

10 53058.1. (a) ~~This article shall be known and may be cited as~~  
11 ~~the Digital Infrastructure and Video Competition Act of 2006.~~

12 (b) The Legislature finds and declares all of the following:

13 (1) Video and cable services provide numerous benefits to all  
14 Californians including access to a variety of news, public  
15 information, education, and entertainment programming.

16 (2) Increased competition in the cable and video service sector  
17 provides consumers with more choice, lowers prices, speeds the

1 deployment of new communication and broadband technologies,  
2 creates jobs, and benefits the California economy.

3 (3) To promote competition, the state should establish a  
4 state-issued franchise authorization process that allows market  
5 participants to use their networks and systems to provide video,  
6 voice, and broadband services to all residents of the state.

7 (4) Legislation to develop this new process should adhere to  
8 the following principles:

9 (i) Create a fair and level playing field for all market  
10 competitors that does not disadvantage or advantage one service  
11 provider or technology over another.

12 (ii) Promote the widespread access to the most technologically  
13 advanced cable and video services to all California communities  
14 in a nondiscriminatory manner regardless of socioeconomic  
15 status.

16 (iii) Protect local government revenues and their control of  
17 public rights of way.

18 (iv) Require market participants to comply with all applicable  
19 consumer protection laws.

20 (v) Complement efforts to increase investment in broadband  
21 infrastructure and close the digital divide.

22 (vi) Continue access to and maintenance of the public,  
23 education, and government (PEG) channels. *(vii) Maintain all existing authority of the California*

24 (5) *(b)* Telephone corporations providing video service pursuant *Public Utilities Commission as*  
25 to this article shall not subsidize the cost of deploying network *established in state and federal*  
26 that is used to provide video service and other costs necessary to *statutes.*  
27 offer video service with revenue derived from the offering of  
28 basic telephone services.

29 53058.2. For purposes of this article, the following words  
30 have the following meanings:

31 (a) "Cable operator" means any person or group of persons  
32 that either provides cable service over a cable system and  
33 directly, or through one or more affiliates, owns a significant  
34 interest in a cable system; or that otherwise controls or is  
35 responsible for, through any arrangement, the management and  
36 operation of a cable system, as set forth in Section 522(5) of Title  
37 47 of the United States Code.

38 (b) "Cable service" is defined as the one-way transmission to  
39 subscribers of either video programming, or other programming  
40 service, and subscriber interaction, if any, that is required for the

1 selection or use of video programming or other programming  
 2 service, as set forth in Section 522(6) of Title 47 of the United  
 3 States Code.

4 (c) "Cable system" is defined as set forth in Section 522(7) of  
 5 Title 47 of the United States Code.

6 (d) "Department" means the ~~Department of Consumer Affairs.~~ Secretary of State

7 (e) "Franchise" means an initial authorization, or renewal of  
 8 an authorization, issued by a franchising entity, regardless of  
 9 whether the authorization is designated as a franchise, permit,  
 10 license, resolution, contract, certificate, agreement, or otherwise,  
 11 that authorizes the construction and operation of a cable system  
 12 in public rights-of-way. ~~(f) "Franchise fee" or "state-issued authorization fee" means the rent paid by~~

13 (fg) "Franchising entity" means the city, county, or city and the video service provider to the local  
 14 county entitled to require franchises and impose fees on cable entity in which service is being provided  
 15 operators, as set forth in Section 53066. for the continued use of streets, public facilities, and other public

16 (gh) "Incumbent cable operator" means the cable operator rights-of-ways of the local entity in order  
 17 serving the largest number of cable subscribers in a particular to provide service and is not a tax with-  
 18 city, county, or city and county franchise area on ~~the effective~~ in the meaning of Section 24 of Article

Jan. 1, 2007 ~~date of this article.~~ XIII of the Constitution. The fee shall be determined as specified in Section 53058.4 and

20 (hi) "Local entity" means any city, county, ~~or~~ city and county other provisions of this article, if  
or it powers authority 21 within the state within whose jurisdiction a holder of a relevant.  
state franchise 22 ~~state-issued authorization~~ under this article may provide cable

23 service or video service.

24 (ij) "Network" means a component of a facility that is wholly  
 25 or partly physically located within a public right-of-way and that  
 26 is used to provide video service, cable service, or voice or data  
 27 services.

28 (jk) "Open-video system" or "OVS" means those services set  
 29 forth in Section 573 of Title 47 of the United States Code.

30 (kl) "OVS operator" means any person or group of persons that  
 31 either provides cable service over an open-video system directly,  
 32 or through one or more affiliates, owns a significant interest in an  
 33 open-video system, or that otherwise controls or is responsible  
 34 for, through any arrangement, the management of an open-video  
 35 system.

36 (lm) "Public right-of-way" means the area along and upon any  
 37 public road or highway, or along or across any of the waters or  
 38 lands within the state.

39 (mn) "State franchise" means a franchise that is issued pursuant  
 40 to this article.

1 (no) "Subscriber" means a person who lawfully receives cable  
2 service or video service from the holder of a state-issued  
3 authorization or franchise for a fee.

4 (op) "Video programming" means programming provided by,  
5 or generally considered comparable to programming provided  
6 by, a television broadcast station, as set forth in Section 522(20)  
7 of Title 47 of the United States Code.

8 (pq) "Video service" means video programming services, cable  
9 service, or OVS service provided through facilities located at  
10 least in part in public rights-of-way without regard to delivery  
11 technology, including Internet protocol *or other* technology. This  
12 definition does not include (1) any video programming provided by  
13 a commercial mobile service provider defined in Section 322(d)  
14 of Title 47 of the United States Code, or (2) video programming  
15 provided via an Internet access service as that term is defined in  
16 Section 231(e)(4) of Title 47 of the United States Code. *, unless the video programming is made*

17 (qr) "Video service provider" means an entity providing video *available by a video service*  
18 service. This term does not include an incumbent cable operator. *provider solely to its video*  
19 *service subscribers*

20 53058.3. (a) ~~The Department of Consumer Affairs~~ is the sole *Secretary of State*  
21 franchising authority for a state franchise to provide video  
22 service under this article. Neither the department nor any *Secretary of State*  
23 franchising entity or other local entity of the state may require the  
24 holder of a state franchise to obtain a separate franchise or  
25 otherwise impose any fee or requirement on any holder of a state  
26 franchise except as expressly provided in this article. Sections  
27 53066, 53066.01, 53066.2, and 53066.3 shall not apply to holders  
of a state franchise.

28 (b) The application process described in subdivisions (d) and  
29 (e) and the authority granted to the department under this section  
30 shall not exceed the provisions set forth in this section.

31 (c) Any person or corporation who seeks to provide cable  
32 service or video service in this state after ~~the effective date of this~~ *January 1, 2007*  
33 ~~article~~ shall file an application for a state franchise with the  
34 department. The department may impose a fee on the applicant  
35 that shall not exceed the actual and reasonable costs of  
36 processing the application and shall not be levied for general  
37 revenue purposes.

38 (d) The application for a state franchise shall be made on a  
39 form prescribed by the department and shall include all of the  
40 following:

- 1 (1) A sworn affidavit signed *under penalty of perjury*, by an officer or another person  
2 authorized to bind the applicant, that affirms all of the following:
- 3 (A) That the applicant has filed or will timely file with the  
4 Federal Communications Commission all forms required by the  
5 Federal Communications Commission before offering cable  
6 service or video service in this state.
- 7 (B) That the applicant agrees to comply with all federal and  
8 state statutes, rules, and regulations, including, but not limited to,  
9 the following:
- 10 (i) A statement that the applicant will not discriminate in the  
11 provision of video or cable services as provided in Section  
12 53058.7.
- 13 (ii) A statement that the applicant will abide by all applicable  
14 consumer protection laws and rules as provided in Section  
15 53058.8.
- 16 (iii) A statement that the applicant will remit the fee required  
17 by Section 53058.4 to the local entity.
- 18 (iv) A statement that the applicant will provide PEG channels  
19 as required by Section 53058.5.
- 20 (C) That the applicant agrees to comply with all lawful city,  
21 county, or city and county regulations regarding the time, place,  
22 and manner of using the public rights-of-way, including, but not  
23 limited to, payment of applicable encroachment, permit, and  
24 inspection fees.
- 25 (D) That the applicant will concurrently deliver a copy of the  
26 application to any local entity where the applicant will provide  
27 service.
- 28 (2) The applicant's legal name and any name under which the  
29 applicant does or will do business in this state.
- 30 (3) The address and telephone number of the applicant's  
31 principal place of business, along with contact information for  
32 the person responsible for ongoing communications with the  
33 department.
- 34 (4) The names and titles of the applicant's principal officers.
- 35 (5) The legal name, address, and telephone number of the  
36 applicant's parent company, if any.
- 37 (6) A description of the service area footprint to be served  
38 including the socioeconomic information of all residents within  
39 the service area footprint.

1 (7) If the applicant is a telephone corporation, as defined in  
2 Section 234 of the Public Utilities Code, a description of the  
3 territory in which the company provides telephone service. The  
4 description shall include socioeconomic information of all  
5 residents within the telephone corporation's service territory.

6 (8) The expected date for the deployment of video service in  
7 each of the areas identified in paragraph (6).

8 (9) Adequate assurance that the applicant possesses the  
9 financial, legal, and technical qualifications necessary to  
10 construct and operate the proposed system and promptly repair  
11 any damage to the public right-of-way caused by the applicant.

12 (e) (1) The department shall notify an applicant for a state  
13 franchise and any affected local entities whether the applicant's  
14 affidavit described by subdivision (d) is complete or incomplete  
15 before the 30th calendar day after the applicant submits the  
16 affidavit.

17 (2) If the department finds the affidavit is complete, it shall  
18 issue a state franchise before the 14th calendar day after that  
19 finding.

20 (3) If the department finds that the application is incomplete, it  
21 shall specify with particularity the items in the application that  
22 are incomplete and permit the applicant to amend the application  
23 to cure any deficiency. The department shall have 30 calendar  
24 days from the date the application is amended to determine its  
25 completeness.

26 (4) The failure of the department to notify the applicant of the  
27 completeness or incompleteness of the applicant's affidavit  
28 before the 44th calendar day after receipt of an affidavit shall be  
29 deemed to constitute issuance of the certificate applied for  
30 without further action on behalf of the applicant.

31 (f) The state franchise issued by the department shall contain  
32 all of the following:

33 (1) A grant of authority to provide video service, in exchange  
34 for the franchise fee required in Section 53058.4, in the service  
35 area footprint as requested in the application.

36 (2) A grant of authority to use the public rights-of-way in the  
37 delivery of video service, subject to the laws of this state.

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

1 (g) The state franchise issued by the department may be  
2 terminated by the video service provider by submitting notice to  
3 the department.

4 (h) Subject to the notice requirements of this article, a state  
5 franchise may be transferred to any successor in interest of the  
6 holder to which the certificate is originally granted, provided that  
7 the transferee first submits all of the information required of the  
8 applicant by this section to the department.

9 (i) In connection with, or as a condition of, receiving a state  
10 franchise, the department shall require a holder to notify the  
11 department and any applicable local entity within 14 business  
12 days of any of the following changes involving the holder or the  
13 state franchise:

14 (1) Any transaction involving a change in the ownership,  
15 operation, control, or corporate organization of the holder,  
16 including a merger, an acquisition, or a reorganization.

17 (2) A change in the holder's legal name or the adoption of, or  
18 change to, an assumed business name. The holder shall submit to  
19 the department a certified copy of either of the following:

20 (A) The amended state franchise.

21 (B) The certificate of assumed business name.

22 (3) A change in the holder's principal business address or in  
23 the name of the person authorized to receive notice on behalf of  
24 the holder.

25 (4) Any transfer of the state franchise to a successor in interest  
26 of the holder. The holder shall identify the successor in interest to  
27 which the transfer is made.

28 (5) The termination of any state franchise issued under this  
29 article. The holder shall identify both of the following:

30 (A) The number of customers in the service area covered by  
31 the state franchise being terminated.

32 (B) The method by which the holder's customers were notified  
33 of the termination.

34 (6) A change in one or more of the service areas of this article  
35 that would increase or decrease the territory within the service  
36 area. The holder shall describe the new boundaries of the affected  
37 service areas after the proposed change is made.

38 (j) As a condition of receiving a state franchise, the holder  
39 shall notify all applicable local entities that the local entity is  
40 included in the holder's service area under the state franchise



1 being issued and that the holder intends to provide video service  
2 in the local entity's jurisdiction. The holder shall give the notice  
3 required under this subdivision not later than 10 days before the  
4 holder begins providing video service in the local entity's  
5 jurisdiction. Insert "A"

6 ~~(km)~~ The department shall develop information guides and other  
7 tools to help educate local entities and other interested parties  
8 about the various provisions of this article.

9 53058.4. (a) insert The holder of a state franchise that offers video The local entity in which video  
10 service within the jurisdiction of the local entity shall calculate service is provided pursuant to a  
11 and remit to the local entity a state franchise fee, as provided in state franchise may, subject to this  
12 this section. The obligation to remit the state franchise fee to a article, impose by ordinance and  
13 local entity begins immediately upon provision of video service receive a franchise fee as compen-  
14 within that local entity's jurisdiction. However, the remittance sation for use of the public rights-of-  
15 shall not be due until the time of the first quarterly payment way provided by the local entity to the  
16 required under subdivision (g) that is at least 180 days after the holder of a state franchise.  
17 provision of service began. The fee remitted to a city or city and  
18 county shall be based on gross revenues earned within that as defined in subdivision (d), derived from  
19 jurisdiction. The fee remitted to a county shall be based on gross the provision of video service  
20 revenues earned within the unincorporated area of the county. No  
21 fee under this section shall become due unless the local entity  
22 provides documentation to the holder of the state franchise  
23 supporting the percentage paid by the incumbent cable operator  
24 serving the area within the local entity's jurisdiction, as provided  
25 below. The fee shall be calculated as a percentage of the holder's  
26 gross revenues, as defined in subdivision (d).

27 (b) The state franchise fee shall be a percentage of the holder's  
28 gross revenues, as defined in subdivision (d), as follows:

29 (1) If there is an incumbent cable operator, the fee shall not be  
30 more than 5 percent of the holder's gross revenues or the  
31 percentage applied by the local entity to the gross revenue of the  
32 incumbent cable operator, whichever is lesser.

33 (2) If there is no incumbent cable operator or upon the  
34 expiration of the incumbent cable operator's franchise, a local  
35 entity may, by ordinance, set the percentage applied to the gross  
36 revenues of all video service providers, provided that the fee  
37 shall not exceed 5 percent of gross revenues and shall be applied  
38 equally to all video service providers in the local entity's  
39 jurisdiction.

1 (c) No local entity or any other political subdivision of this  
2 state may demand any additional fees or charges or other  
3 remuneration of any kind from the holder of a state franchise  
4 based solely on its status as a provider of video or cable services  
5 other than as set forth in this section and may not demand the use  
6 of any other calculation method or definition of gross revenues.  
7 However, nothing in this section shall be construed to limit a  
8 local entity's ability to impose utility user taxes and other  
9 generally applicable taxes, fees, and charges under other  
10 applicable provisions of state law that are applied in a  
11 nondiscriminatory and competitively neutral manner.

12 (d) For purposes of this section, the term "gross revenues"  
13 means all revenue actually received by the holder of a state  
14 franchise, as determined in accordance with generally accepted  
15 accounting principles, that is derived from the operation of the  
16 holder's network to provide cable or video service within the  
17 jurisdiction of the local entity, including all of the following:

18 (1) All charges billed to subscribers for any and all cable  
19 service or video service provided by the holder of a state  
20 franchise, including all revenue related to programming provided  
21 to the subscriber, equipment rentals, late fees, and ~~not~~ insufficient  
22 fund fees.

23 (2) Any fees imposed on the holder of a state franchise by this  
24 section that are passed through to, and paid by, the subscribers.

25 (3) Compensation received by the holder of a state franchise  
26 that is derived from the operation of the holder's network to  
27 provide cable service or video service with respect to  
28 commissions that are paid to the holder of a state-issued franchise  
29 ~~authorization~~ as compensation for promotion or exhibition of any  
30 products or services on the holder's network, such as a "home  
31 shopping" or similar channel, subject to paragraph (4) of  
32 subdivision (e).

33 (4) A pro rata portion of all revenue derived by the holder of a  
34 state franchise or its affiliates pursuant to compensation  
35 arrangements for advertising derived from the operation of the  
36 holder's network to provide video service within the jurisdiction  
37 of the local entity, subject to paragraph (1) of subdivision (e).

38 The allocation shall be based on the number of subscribers in the  
39 local entity divided by the total number of subscribers in relation  
40 to the relevant regional or national compensation arrangement. (5) Any amounts received that are

recorded as negative expenditure, or as a reduction to expenses.

- 1 (e) For purposes of this section, the term "gross revenue" set  
2 forth in subdivision (d) does not include any of the following:
- 3 (1) Amounts not actually received, even if billed, such as bad  
4 debt; refunds, rebates, or discounts to subscribers or other third  
5 parties; or revenue imputed from the provision of cable services  
6 or video services for free or at reduced rates to any person as  
7 required or allowed by law, including, but not limited to, the  
8 provision of these services to public institutions, public schools,  
9 governmental agencies, or employees ~~other than~~ except that forgone revenue  
10 chosen not to be received in exchange for trades, barter,  
11 services, or other items of value shall be included in gross revenue.
- 12 (2) Revenues received by any affiliate or any other person in  
13 exchange for supplying goods or services used by the holder of a  
14 state franchise to provide cable services or video services.  
15 However, revenue received by an affiliate of the holder from the  
16 affiliate's provision of cable or video service shall be included in  
17 gross revenue as follows:
- 18 (A) To the extent that treating the revenue as revenue of the  
19 affiliate, instead of revenue of the holder, would have the effect  
20 of evading the payment of fees that would otherwise be paid to  
21 the local entity.
- 22 (B) The revenue is not otherwise subject to fees to be paid to  
23 the local entity.
- 24 (3) Revenue derived from services classified as noncable  
25 services or nonvideo services under federal law, including, but  
26 not limited to, revenue derived from telecommunications services  
27 and information services, other than cable services or video  
28 services, and any other revenues attributed by the holder of a  
29 state franchise to noncable services or nonvideo services in  
30 accordance with Federal Communications Commission rules,  
31 regulations, standards, or orders.
- 32 (4) Revenue paid by subscribers to "home shopping" or  
33 similar networks directly from the sale of merchandise through  
34 any home shopping channel offered as part of the cable services  
35 or video services. However, commissions or other compensation  
36 paid to the holder of a state franchise by "home shopping" or  
37 similar networks for the promotion or exhibition products or  
38 services shall be included in gross revenue.

- 1 (5) Revenue from the sale of cable services or video services  
2 for resale in which the reseller is required to collect a fee similar  
3 to the state franchise fee from the reseller's customers.
- 4 (6) Amounts billed to, and collected from, subscribers to  
5 recover any tax, fee, or surcharge imposed by any governmental  
6 entity on the holder of a state franchise, including, but not limited  
7 to, sales and use taxes, gross receipts taxes, excise taxes, utility  
8 users taxes, public service taxes, communication taxes, and any  
9 other fee not imposed by this section.
- 10 (7) Revenue from the sale of capital assets or surplus  
11 equipment not used by the purchaser to receive cable services or  
12 video services from the seller of those assets or surplus  
13 equipment.
- 14 (8) Revenue from directory or Internet advertising revenue,  
15 including, but not limited to, yellow pages, white pages, banner  
16 advertisement, and electronic publishing.
- 17 (9) Revenue received as reimbursement by programmers of  
18 marketing costs incurred by the holder of a state franchise for the  
19 introduction of new programming.
- 20 (10) Security deposits received from subscribers, excluding  
21 security deposits applied to the outstanding balance of a  
22 subscriber's account and thereby taken into revenue.
- 23 (f) For purposes of this section, in the case of a video service  
24 that may be bundled or integrated functionally with other  
25 services, capabilities, or applications, the state franchise fee shall  
26 be applied only to the gross revenue, as defined in subdivision  
27 (d), attributable to cable service or video service, as reflected on  
28 the books and records of the holder kept in the regular course of  
29 business in accordance with generally accepted accounting  
30 principles and Federal Communications Commission or Public  
31 Utilities Commission rules, regulations, standards, and orders, as  
32 applicable.
- 33 (g) The state franchise fee shall be remitted to the applicable  
34 local entity quarterly, within 45 days after the end of the quarter  
35 for the preceding calendar quarter. Each payment shall be  
36 accompanied by a summary explaining the basis for the  
37 calculation of the state franchise fee. If the holder does not pay  
38 the franchise fee when due, the holder shall pay a late payment  
39 charge at a rate per year equal to the highest prime lending rate  
40 during the period of delinquency, plus 1 percent. If the holder has

1 overpaid the franchise fee, it may deduct the overpayment from  
2 its next quarterly payment.

3 (h) Not more than once annually, a local entity may examine  
4 the business records of a holder of a state franchise to the extent  
5 reasonably necessary to ensure compensation in accordance with  
6 subdivision (a). The holder shall keep all business records  
7 reflecting any gross revenues, even if there is a change in  
8 ownership, for at least four years after those revenues are  
9 recognized by the holder on its books and records. If the  
10 examination discloses that the holder has underpaid franchise  
11 fees by more than 5 percent during the examination period, the  
12 holder shall pay all of the reasonable and actual costs of the  
13 examination. If the examination discloses that the holder has not  
14 underpaid franchise fees, the local entity shall pay all of the  
15 reasonable and actual costs of the examination. In every other  
16 instance, each party shall bear its own costs of the examination.  
17 Any claims by a local entity that compensation is not in  
18 accordance with subdivision (a), and any claims for refunds or  
19 other corrections to the remittance of the holder of a state-issued franchise  
20 authorization, shall be made within three years and 45 days of the  
21 end of the quarter for which compensation is remitted, or three  
22 years from the date of the remittance, whichever is later. Either a  
23 local entity or the holder may, in the event of a dispute  
24 concerning compensation under this section, bring an action in a  
25 court of competent jurisdiction.

26 (i) The holder of a state franchise may identify and collect the  
27 amount of the state franchise fee as a separate line item on the  
28 regular bill of each subscriber. ~~(i) The holder of a state franchise under this article who also provides~~

29 53058.5. (a) The holder of a state franchise shall designate a stand-alone, residential, primary  
30 sufficient amount of capacity on its network to allow the line, basic telephone service shall not  
31 provision of the same number of PEG channels, that the increase this rate to finance the cost  
32 incumbent cable operator has activated and provided within the of deploying a network to provide  
33 local entity under the terms of any franchise in effect in the local video service.  
34 entity as of the effective date of this article January 1, 2007. For the purposes of  
35 this section, a PEG channel is deemed activated if it is being public, educational, and governmental  
36 utilized for PEG programming within the municipality for at least access (PEG)  
37 eight hours per day. The holder shall have six months from the  
38 date the local entity requests the PEG channels to designate the  
39 capacity. However, the six-month period shall be tolled by any  
40 period during which the designation or provision of PEG channel

1 capacity is technically infeasible, including any failure or delay  
2 of the incumbent cable operator to make adequate  
3 interconnection available, as required by this subdivision.

4 (b) The PEG channels shall be for the exclusive use of the  
5 local entity or its designee to provide public, educational, and  
6 governmental channels. ~~The~~ PEG channels shall be used only for  
7 noncommercial purposes. However, advertising or sponsorship  
8 recognition may be carried on the channels for the purpose of  
9 funding the operation of the channels. The PEG channels shall all  
10 be carried on the basic service tier. To the extent feasible, ~~the~~ PEG  
11 channels shall not be separated numerically from other channels  
12 carried on the basic service tier and the channel numbers for the  
13 PEG channels shall be the same channel numbers used by the  
14 incumbent cable operator unless prohibited by federal law. After  
15 the initial designation of PEG channel numbers, the channel  
16 numbers shall not be changed without the agreement of the local  
17 entity unless the change is required by federal law. Each channel  
18 shall be capable of carrying a National Television System  
19 Committee (NTSC) television signal.

20 (c) ~~(1)~~ If no PEG channels are activated and provided within the  
21 local entity as of ~~the effective date of this article~~ January 1, 2007, a local entity  
22 whose jurisdiction lies within the authorized service area of the  
23 holder of a state franchise may request the holder to designate not  
24 more than a total of three PEG channels.

25 ~~(2)~~ The holder shall have six months from the date of the request  
26 to designate the capacity. However, the six-month period shall be  
27 tolled by any period during which the designation or provision of  
28 PEG channel capacity is technically infeasible, including any  
29 failure or delay of the incumbent cable operator to make  
30 adequate interconnection available, as required by this  
31 subdivision.

32 (d) The holder shall provide an additional PEG channel when  
33 the locally produced, nonduplicated programming televised on a  
34 given channel exceeds 56 hours per week, ~~not including~~  
35 ~~televised public meetings or classes in an accredited learning~~  
36 ~~institution~~, as measured on a quarterly basis. The additional  
37 channel shall not be used for any purpose other than to continue  
38 programming additional government, education, or public access  
39 television.

1 (e) Any PEG channel provided pursuant to this section that is  
2 not utilized by the local entity for at least eight hours per day  
3 may no longer be made available to the local entity, and may be  
4 programmed at the holder's discretion. At the time that the local  
5 entity can certify to the holder a schedule for at least eight hours  
6 of daily programming, the holder of the state franchise shall  
7 restore the channel or channels for the use of the local entity.

8 (f) The content to be provided over the PEG channel capacity  
9 provided pursuant to this section shall be the responsibility of the  
10 local entity receiving the benefit of that capacity, and the holder  
11 of a state franchise bears only the responsibility for the  
12 transmission of that content, subject to technological restraints.

13 (g) The local entity shall ensure that all transmissions, content,  
14 or programming to be transmitted by a holder of a state franchise  
15 are provided or submitted in a manner or form that is standard in  
16 the industry. The holder shall be responsible for any changes in  
17 the form of the transmission necessary to make it compatible  
18 with the technology or protocol utilized by the holder to deliver  
19 services. The provision of those transmissions, content, or  
20 programming to the holder of a state franchise shall constitute  
21 authorization for the holder to carry those transmissions, content,  
22 or programming, including, at the holder's option, beyond the  
23 jurisdictional boundaries of that local entity.

24 (h) Where technically feasible, the holder of a state franchise  
25 and an incumbent cable operator shall negotiate in good faith to  
26 interconnect their networks for the purpose of providing PEG  
27 programming. Interconnection may be accomplished by direct  
28 cable, microwave link, satellite, or other reasonable method of  
29 connection. Holders of a state franchise and incumbent cable  
30 operators shall provide interconnection of the PEG channels on  
31 reasonable terms and conditions and may not withhold the  
32 interconnection. If a holder of a state franchise and an incumbent  
33 cable operator cannot reach a mutually acceptable  
34 interconnection agreement, the local entity may require the  
35 incumbent cable operator to allow the holder to interconnect its  
36 network with the incumbent's network at a technically feasible  
37 point on the holder's network as identified by the holder. If no  
38 technically feasible point for interconnection is available, the  
39 holder of a state franchise shall make an interconnection

1 available to the channel originator and shall provide the facilities  
2 necessary for the interconnection.

3 (i) A holder of a state franchise shall not be required to  
4 interconnect for, or otherwise to transmit, PEG content that is  
5 branded with the logo, name, or other identifying marks of  
6 another cable operator or video service provider. For purposes of  
7 this section, PEG content is not branded if it includes only  
8 production credits or other similar information displayed at the  
9 conclusion of a program. The local entity may require a cable  
10 operator or video service provider to remove its logo, name, or  
11 other identifying marks from PEG content that is to be made  
12 available through interconnection to another provider of PEG  
13 capacity.

14 (j) In addition to any provision for *the* PEG channels required  
15 under subdivisions (a) to (k), inclusive, the holder shall reserve,  
16 designate, and activate a channel for carriage of public affairs  
17 programming that includes live and recorded coverage of state  
18 government and state legislative activities originated by the  
19 California Channel and designate and activate a channel for  
20 carriage of public affairs programming originated by C-Span.

21 (k) After ~~the effective date of this article~~ *January 1, 2007*, and until the  
22 expiration of the incumbent cable operator's franchise, if the  
23 incumbent cable operator has existing unsatisfied obligations  
24 under the franchise to remit to the local entity any cash payments  
25 for the ongoing capital costs of public educational and  
26 governmental access channel facilities, the local entity shall  
27 divide those cash payments among all cable or video providers as  
28 provided in this section. The fee shall be the holder's pro rata per  
29 subscriber share of the cash payment required to be paid by the  
30 incumbent cable operator to the local entity for the capital costs  
31 of *PEG* public, educational, and governmental access channel  
32 facilities.

33 (l) In determining the fee on a pro rata per subscriber basis, all  
34 cable and video service providers shall report, for the period in  
35 question, to the local entity the total number of subscribers  
36 served *within* the local entity's jurisdiction, which shall be treated  
37 as confidential by the local entity and shall be used only to derive  
38 the per subscriber fee required by this section. The local entity  
39 shall then determine the payment due from each provider based  
40 on a per subscriber basis for the period by multiplying the



1 unsatisfied cash payments for the ongoing capital costs of public,  
2 educational, and governmental access PEG channel facilities by a ratio  
3 of the reported subscribers of each provider to the total  
4 subscribers within the local entity as of the end of the period. The  
5 local entity shall notify the respective providers, in writing, of the  
6 resulting pro rata amount. After the notice, any fees required by  
7 this section shall be remitted to the applicable local entity  
8 quarterly, within 45 days after the end of the quarter for the  
9 preceding calendar quarter, and may only be used by the local  
10 entity as authorized under federal law.

11 (m) If there is no incumbent cable operator, or upon the  
12 expiration of the incumbent cable operator's franchise, a local  
13 entity may, by ordinance, establish a fee to support the capital  
14 costs of PEG public, educational, and governmental access channel  
15 facilities and to support institutional network facilities. The fee  
16 shall not exceed the per subscriber fee paid under subdivision (k),  
17 if such a fee was paid, or 1 percent of the holder's gross  
18 revenues, as defined in Section 53058.4, earned in the local  
19 entity, whichever is lower. ~~The~~ *For purposes of administration,*  
20 *the* fee shall be deposited in a special fund established by the  
21 local entity to be used ~~solely for the purposes provided for in this~~  
22 *section: for purposes allowed under federal law.*

23 (n) The following services shall continue to be provided by the  
24 incumbent cable operator that was furnishing services pursuant to  
25 a franchise until January 1, 2008, or until the term of the  
26 franchise expires, whichever is later:

27 (1) PEG production or studio facilities.

28 (2) Institutional network capacity, however defined or referred  
29 to in the incumbent cable operator's franchise, but generally  
30 referring to a private line data network capacity for use by the  
31 local entity for noncommercial purposes.

32 (3) Cable services to community public buildings, such as  
33 municipal buildings and public schools.

34 (o) The holder of a state franchise may recover the amount of  
35 any fee remitted to a local entity under this section by billing a  
36 recovery fee as a separate line item on the regular bill of each  
37 subscriber.

38 (p) A court of competent jurisdiction shall have exclusive  
39 jurisdiction to enforce any requirement under this section or  
40 resolve any dispute regarding the requirements set forth in this

1 section, and no provider may be barred from the provision of  
2 service or be required to terminate service as a result of that  
3 dispute or enforcement action.

4 53058.6. Holders of state franchises shall comply with the  
5 Emergency Alert System requirements of the Federal  
6 Communications Commission in order that emergency messages  
7 may be distributed over the holder's network.

8 53058.7. (a) The local entity shall allow the holder of a state  
9 franchise under this article to install, construct, and maintain a  
10 network within public rights-of-way under the same terms and  
11 conditions as applicable to telephone corporations, as defined  
12 under Section 234 of the Public Utilities Code, under applicable  
13 state and federal law.

14 (b) A local entity may not enforce against the holder of a state  
15 franchise any rule, regulation, or ordinance that purports to allow  
16 the local entity to purchase or force the sale of a network.

17 53058.8. (a) A cable operator or video service provider that  
18 has been granted a state franchise under this article may not  
19 discriminate against or deny access to service to any group of  
20 potential residential subscribers because of the income of the  
21 residents in the local area in which the group resides, as required  
22 by Section 541(a)(3) of Title 47 of the United States Code.

23 (b) ~~It is the intent of the Legislature that the principles for~~  
24 ~~competition in the provision of video service will require a level~~  
25 ~~playing field to assure that competition is fair, will require~~  
26 ~~widespread build-out of state-of-the-art services so that~~  
27 ~~competition can benefit the greatest number of customers, and~~  
28 ~~will prohibit discrimination, redlining, and service abandonment~~  
29 ~~so that a lack of competition will not be detrimental to customers.~~ *Insert "B"*

30 53058.9. (a) The holder of a state franchise shall comply  
31 with the provisions of Sections 53055, 53055.1, 53055.2, and  
32 53088.2, and any other customer service standards pertaining to  
33 the provision of video service required to be enforced by federal  
34 law, adopted by the department pursuant to subdivision (q) of  
35 Section 53088.2, or adopted by subsequent enactment of the  
36 Legislature.

37 (b) The local entity shall enforce all of the customer service  
38 and protection standards of this section with respect to  
39 complaints received from residents within the local entity's  
40 jurisdiction, but it may not adopt or seek to enforce any

1 additional or different customer service or other performance  
2 standards under Section 53055.3, subdivision (q), (r), or (s) of  
3 Section 53088.2, or any other authority or provision of law.

4 (c) The local entity may, by ordinance, provide a schedule of  
5 penalties for the material breach by a holder of a state franchise  
6 of this section. No monetary penalties shall be assessed for a  
7 material breach if the breach is out of the reasonable control of  
8 the holder. Further, no monetary penalties may be imposed prior  
9 to January 1, 2007 ~~the effective date of this section~~. Any schedule of monetary  
10 penalties adopted pursuant to this section shall in no event  
11 exceed two hundred dollars (\$200) for each day of each material  
12 breach, not to exceed six hundred dollars (\$600) for each  
13 occurrence of material breach. However, if a material breach of  
14 this section has occurred, and the city, county, or city and county  
15 has provided notice and a fine or penalty has been assessed, ~~in~~ and if a  
16 subsequent material breach of the same nature occurs ~~ing~~ within  
17 12 months, the penalties may be increased by the city, county, or  
18 city and county to a maximum of four hundred dollars (\$400) for  
19 each day of each material breach, not to exceed one thousand two  
20 hundred dollars (\$1,200) for each occurrence of the material  
21 breach. If a third or further material breach of the same nature  
22 occurs within those same 12 months, and the city, county, or city  
23 and county has provided notice and a fine or penalty has been  
24 assessed, the penalties may be increased to a maximum of one  
25 thousand dollars (\$1,000) for each day of each material breach,  
26 not to exceed three thousand dollars (\$3,000) for each occurrence  
27 of the material breach. With respect to video providers subject to  
28 a franchise or license, any monetary penalties assessed under this  
29 section shall be reduced dollar for dollar to the extent any  
30 liquidated damage or penalty provision of a current cable  
31 television ordinance, franchise contract, or license agreement  
32 imposes a monetary obligation upon a video provider for the  
33 same customer service failures, and no other monetary damages  
34 may be assessed.

35 (d) If the local entity adopts a schedule of monetary penalties,  
36 the following procedures shall be followed:

37 (1) The local entity shall give the video provider written notice  
38 of any alleged material breaches of the consumer service  
39 standards of this ~~division~~ article and allow the video provider at least 30  
40 days from receipt of the notice to remedy the specified breach.

1 (2) A material breach for the purposes of assessing penalties  
2 shall be deemed to have occurred for each day, following the  
3 expiration of the period specified in paragraph (1), that any  
4 material breach has not been remedied by the video provider,  
5 irrespective of the number of customers affected.

6 (e) This section shall not preclude a party affected by this  
7 section from utilizing any judicial remedy available to that party  
8 without regard to this section. Actions taken by a local legislative  
9 body, including a franchising authority, pursuant to this section  
10 shall not be binding upon a court of law. For this purpose, a court  
11 of law may conduct de novo review of any issues presented.

12 53058.10. (a) The holder of a state franchise shall perform  
13 background checks of applicants for employment, according to  
14 current business practices.

15 (b) A background check equivalent to that performed by the  
16 holder shall also be conducted on all of the following:

17 (1) Persons hired by a holder under a personal service  
18 contract.

19 (2) Independent contractors and their employees.

20 (3) Vendors and their employees.

21 (c) Independent contractors and vendors shall certify that they  
22 have obtained the background checks required pursuant to  
23 subdivision (f), and shall make the background checks available  
24 to the holder upon request.

25 (d) Except as otherwise provided by contract, the holder of a  
26 state franchise shall not be responsible for administering the  
27 background checks and shall not assume the costs of the  
28 background checks of individuals who are not applicants for  
29 employment of the holder.

30 (e) (1) Subdivision (a) only applies to applicants for  
31 employment for positions that would allow the applicant to have  
32 direct contact with or access to the holder's network, central  
33 office, or customer premises, and perform activities that involve  
34 the installation, service, or repair of the holder's network or  
35 equipment.

36 (2) Subdivision (b) only applies to persons that have direct  
37 contact with or access to the holder's network, central office, or  
38 customer premises, and perform activities that involve the  
39 installation, service, or repair of the holder's network or  
40 equipment.

1 (f) This section does not apply to temporary workers  
2 performing emergency functions to restore the network of a  
3 holder to its normal state in the event of a natural disaster or an  
4 emergency that threatens or results in the loss of service.  
5 53058.11. (a) A holder of a state franchise employing more  
6 than 750 total employees *in California* shall annually report to the department  
7 all of the following:  
8 (1) The number of California residents employed by the  
9 holder, calculated on a full-time or full-time equivalent basis.  
10 (2) The percentage of the holder's total domestic workforce,  
11 calculated on a full-time or full-time equivalent basis.  
12 (3) The types and numbers of jobs by occupational  
13 classification held by residents of California employed by  
14 holders of state franchises and the average pay and benefits of  
15 those jobs and, separately, ~~the number of corporations~~  
16 ~~headquartered outside of California.~~  
17 ~~(4) The number of California and separately, the number of~~  
18 ~~out-of-state residents employed by independent contractors,~~  
19 ~~companies, and consultants hired by the holder, calculated on a~~  
20 ~~full-time or full-time equivalent basis, when the holder has~~  
21 ~~obtained this information upon requesting it from the~~  
22 ~~independent contractor, company, or consultant, and the holder is~~  
23 ~~not contractually prohibited from disclosing the information to~~  
24 ~~the public. This paragraph applies only to those employees of an~~  
25 ~~independent contractor, company, or consultant that are personally~~  
26 ~~providing services to the holder, and does not apply to employees~~  
27 ~~of an independent contractor, company or consultant not personally~~  
28 ~~performing services for the holder.~~  
29 (54) The number holder of net new positions proposed to be created  
30 directly by the holder of a state franchise during the upcoming  
31 year by occupational classifications and by category of full-time,  
32 part-time, temporary, and contract employees.  
33 (b) The department shall annually report the information  
34 required to be reported by holders of state franchises pursuant to  
35 subdivision (a), to the Assembly Committee on Utilities and  
36 Commerce and the Senate Committee on Energy, Utilities and  
37 Communications, or their successor committees, and within a  
38 reasonable time thereafter, shall make the information available  
39 to the public on its Internet Web site.

1 53058.12. (a) The provisions of this article are intended to be  
2 consistent with the ~~Federal~~ *federal* Cable Act (47 U.S.C. Sec. 521 et  
3 seq.).

4 (b) Nothing in this section shall be interpreted to prevent a  
5 voice provider, cable operator or video service provider, or local  
6 entity from seeking clarification of its rights and obligations  
7 under federal law or from exercising any right or authority under  
8 federal or state law.

9

10 *Insert "C"*

11 **CORRECTIONS:**

12 **Text — Page 15.**

13

Insert "A"

Within 24 months, after issuance of the holder's first state franchise, and annually thereafter for eight additional years, the holder shall report the extent to which cable or video service is available to potential subscribers within the holder's service area, including all of the following:

- (1) The demographics of the service area;
- (2) The percentage of homes in the service area that have access to service;
- (3) The demographics of the portion of the service area that has access to service;
- (4) The technology used by the holder to provide access to service;
- (5) Whether the holder is in compliance with the anti-discrimination and build out provisions set forth as required; and
- (6) a brief description of any issues related to providing access to service, as described in Section , within the holder's service territory.

The report shall be filed with the Legislature, the department, the Governor, and the Attorney General, and posted on the holder's Web site. The holder shall not be required to report competitively sensitive information.

"(d) (1) A state issued franchise shall only be valid for 10 years after the date of issuance and video service provider must apply for a renewal of the state franchise if it wishes to continue to provide video service in the area covered by the franchise after the expiration of the franchise.

(2) The department shall ensure that the process for renewing the franchise complies with this section.

the department may not renew the franchise unless the video service provider can show that it is in compliance with all of the requirement of this act and has no outstanding financial obligations to the state or any local entity that are expressly allowed under this act.

Insert "B"

(b) Holders with more than 500,000 telephone customers in California satisfy this section if:

(1) within three years after it begins providing video service under this article, at least 25% of households with access to the holders video service are low income households, and

(2) within five years after it begins providing video service under this article, (i) at least 30% of the households with access to the holder's video service are low income households

(c) Holders with less than 500,000 telephone customers in California satisfy this section if

(1) Where the holder is a telephone service provider of last resort, as determined by the California Public Utilities Commission, and is offering service within its telephone service area, the holder shall offer video service to all customers within their telephone service area within a reasonable time, as determined by the state franchising authority.

However, the state franchising authority shall not require the holder to offer services where the cost to provide service is substantially above the average cost of providing service in that community. If offering service outside its telephone service area, the holder no additional requirement applies.

(2) Where the holder is not a telephone service provider of last resort, the holder offers video service to an entire municipality in a manner and sequence negotiated with that municipality that is predicated on the success of the holder in attracting customers.

(3) Where the holder is offering video service and there is no other video service being offered, other than direct-to-home satellite service, no additional requirement applies.

(d) For holders with more than 500,000 telephone customers in California,

(1) If the holder is deploying fiber optic facilities to the customer's premise, the holder shall provide access to its video service to a number of households at least equal to 25% of the customer households in the holder's telephone service area within two years after it begins providing video service under this article, and to a number at least equal to 40% of such households within five years.

(2) If the holder is not deploying fiber optic facilities to the customer's premise, the holder shall provide access to its video service to a number of households at least equal to 35% of the households in the holder's telephone service area within three years after it begins providing video service under this article, and to a number at least equal to 50% of such households within five years.

(3) A holder shall not be required to meet the 40% requirement in paragraph (1) or the 50% requirement in paragraph (2) until two years after at least 30% of the households with access to the holders video service subscribe to it for six consecutive months.

(e) (1) After two years the holder may apply to the state franchising authority for a waiver of the requirements of (b), (c), or (d). Notice of such application shall also be provided to the telephone customers of the holder, the Secretary of the Senate, and the Chief Clerk of the Assembly.

(2) Upon application, the franchising authority shall hold public hearings in the telephone service area of the applicant.

(3) in reviewing the failure to satisfy the obligations contained in subsections (b), (c), and (d), the franchising authority shall consider reasonable technical, economic, and operational factors, including but not limited to:

(i) the ability of the holder to obtain access to rights-of-way under reasonable terms and conditions

(ii) the degree to which developments or buildings are not subject to competition because of existing exclusive arrangements

(iii) the degree to which developments or buildings are inaccessible using reasonable technical solutions under commercially reasonable terms and conditions

(4) The franchising authority may grant the waiver only if the holder has made substantial and continuous effort to meet the requirements of (b), (c), or (d). If a waiver is granted the franchising authority shall establish new requirements.



(f) Local governments may bring complaints to the state franchising authority that a holder is not offering video service as required by this article, or the state franchising authority may open an investigation on its own motion. The state franchising authority shall hold public hearings before issuing a decision.

(g) If the state franchising authority finds that the holder is in violation of this article it may, in addition to any other remedies provided by law, impose a fine not to exceed 1 percent of the holder's total monthly gross revenue received from provision of video service in the state each month from the date of the decision until the date that compliance has been achieved.

(h) If the court finds that the holder of the state franchise is in violation of Section 53058.8 herein, the holder's state franchise shall immediately terminate and the court shall, in addition to any other remedies provided by law, impose a fine not to exceed 1 percent of the holder's total gross revenue of its entire cable and service footprint in the state in the full calendar month immediately prior to the decision.

(i) For purposes of this section

(1) "household" is defined consistent with the U.S. Census Bureau as a house, an apartment, a mobile home, a group of rooms, or a single room that is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

(2) "low income household" is defined as those residential households located within the holder's existing telephone service area where the average annual household income is less than \$35,000 based on the U.S. Census Bureau estimates adjusted annually to reflect rates of change and distribution through the effective date of this article.

(3) "customer's household" is defined as those residential households located within the holder's existing telephone service area that are customers of the service by which that telephone service area is defined.

(4) "access" means that the holder is capable of providing video service at the household address using any technology, other than direct-to-home satellite services, that provides two way broadband capability and comparable video programming, content and functionality regardless of whether any customer has ordered service or whether the owner or landlord or other responsible person has granted access to the household.

(i) Nothing in this section shall be construed to require a holder to provide video service outside its wireline footprint or to match the existing cable franchise territory of any cable provider.

Insert "C"

SEC. 2. Section 107.7 of the Revenue and Taxation Code is amended to read:

107.7. (a) When valuing possessory interests in real property created by the right to place wires, conduits, and appurtenances along or across public streets, rights-of-way, or public easements contained in a cable television franchise or license granted pursuant to Section 53058.3 or Section 53066 of the Government Code (a "cable television possessory interest"), the assessor shall value these possessory interests consistent with the requirements of Section 401. The methods of valuation shall include, but not be limited to, the comparable sales method, the income method (including, but not limited to, capitalizing rent), or the cost method.

(b) (1) The preferred method of valuation of a cable television possessory interest is capitalizing the annual rent, using an appropriate capitalization rate.

(2) For purposes of this section, the annual rent shall be that portion of that franchise fee received by the franchising authority that is determined to be payment for the cable television possessory interest for the actual remaining term or the reasonable anticipated term of the franchise or license or the appropriate economic rent. If the assessor does not use a portion of the franchise fee as the economic rent, the resulting assessments shall not benefit from any presumption of correctness.

(c) If the comparable sales method, which is not the preferred method, is used by the assessor to value a cable television possessory interest when sold in combination with other property including, but not limited to, intangible assets or rights, the resulting assessments shall not benefit from any presumption of correctness.

(d) Intangible assets or rights of a cable television system are not subject to ad valorem property taxation. These intangible assets or rights, include, but are not limited to: franchises or licenses to construct, operate, and maintain a cable television system for a specified franchise term (excepting there from that portion of the franchise or license which grants the possessory interest), subscribers, marketing, and programming contracts, nonreal property lease agreements, management and operating systems, a work force in place, going concern value, deferred, startup, or prematurity costs, covenants not to compete, and goodwill. However, a cable television possessory interest may be assessed and valued by assuming the presence of intangible assets or rights necessary to put the cable television possessory interest to beneficial or productive use in an operating cable television system.

(e) Whenever any change in ownership of a cable television possessory interest occurs, the person or legal entity required to file a statement pursuant to Section 480, 480.1, or 480.2, shall, at the request of the assessor, provide as a part of that statement the following, if applicable: confirmation of the sales price; allocation of the sales price among the counties; and gross revenue and franchise fee expenses of the cable television system by county. Failure to provide this information shall result in a penalty as provided in Section 482, except that the maximum penalty shall be five thousand dollar (\$5,000).

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.