

AMENDMENTS TO ASSEMBLY BILL NO. 2987  
AS AMENDED IN SENATE AUGUST 7, 2006

Amendment 1

Below line 2 of the heading, insert:

(Principal coauthor: Senator Escutia)

Amendment 2

On page 3, line 19, strike out "5800.1." and insert:

5810.

Amendment 3

On page 5, strike out lines 1 to 5, inclusive

Amendment 4

On page 5, line 7, strike out "5800.2." and insert:

5830.

Amendment 5

On page 5, line 7, strike out "article" and insert:

division

Amendment 6

On page 5, between lines 8 and 9, insert:

(a) "Broadband" means any service defined as broadband in the most recent Federal Communications Commission inquiry pursuant to Section 706 of the Telecommunications Act of 1996 (P.L. 104-104).

Amendment 7

On page 5, line 9, strike out "(a)" and insert:

(b)



Amendment 8

On page 5, line 16, strike out "(b)" and insert:

(c)

Amendment 9

On page 5, line 22, strike out "(c)" and insert:

(d)

Amendment 10

On page 5, line 25, strike out "(d)" and insert:

(e)

Amendment 11

On page 5, line 26, strike out "(e)" and insert:

(f)

Amendment 12

On page 5, line 30, after "system" insert:

or open-video system

Amendment 13

On page 6, line 1, strike out "(f)" and insert:

(g)

Amendment 14

On page 6, strike out line 3, in line 4, strike out "county" and insert:

(h) "Local franchising entity" means the city, county, city and county, or joint powers authority

Amendment 15

On page 6, line 5, after "53066" insert:

of the Government Code

Amendment 16

On page 6, strike out lines 6 and 7 and insert:

(i) "Incumbent cable operator" means a cable operator or OVS serving subscribers under a franchise in a particular

Amendment 17

On page 6, line 10, strike out "(i)" and insert:

(j)

Amendment 18

On page 6, line 12, strike out "article" and insert:

division

Amendment 19

On page 6, line 14, strike out "(j)" and insert:

(k)

Amendment 20

On page 6, line 18, strike out "(k)" and insert:

(l)

Amendment 21

On page 6, line 20, strike out "(l)" and insert:

(m)

## Amendment 22

On page 6, line 26, strike out "(m)" and insert:

(n)

## Amendment 23

On page 6, between lines 28 and 29, insert:

(o) "Socioeconomic status information" means information attained from the measures of socioeconomic status (SES) contained in the most recent United States Census or official update, as listed in paragraph (1); additional information contained in the most recent United States Census or official update, as listed in paragraph (2); and information on community type as defined by the Office of Statewide Health Planning and Development, as listed in paragraph (3).

(1) Census Bureau Index of SES relies on the following information:

- (A) Number of households.
  - (B) Number of persons.
  - (C) Number of adults aged 25 years or over.
  - (D) Number of persons living below the federal 100 percent poverty line.
  - (E) Number of households owning a home.
  - (F) Number of households owning one or more cars.
  - (G) Number of households with an annual family income of fifty thousand dollars (\$50,000) or more.
  - (H) Number of adults aged 25 years or over with less than a high school diploma.
  - (I) Number of adults aged 25 years or over who have completed four years of college.
- (2) "Socioeconomic status information" also includes the following measures:
- (A) Median household income.
  - (B) Number of persons who are under 5 years, 18 years and older, and 65 years and older.
  - (C) Median household population.
  - (D) Number of persons who are American Indian or Alaska Native.
  - (E) Number of persons who are Asian.
  - (F) Number of persons who are Black or African-American.
  - (G) Number of persons who are Hispanic or Latino.
  - (H) Number of persons who are Native Hawaiian and other Pacific Islander.
  - (I) Number of persons who are White.
  - (J) Number of persons who are an other race.
  - (K) Number of persons who are two or more races.
  - (L) Number of households where a language other than English is spoken in the home.

(3) "Community type" lists whole census tracts as either rural or frontier, or urban, as defined by the Office of Statewide Health Planning and Development's Medical Service Study Area definitions.

Amendment 24

On page 6, line 29, strike out "(n)" and insert:

(p)

Amendment 25

On page 6, line 30, strike out "article" and insert:

division

Amendment 26

On page 6, line 31, strike out "(o)" and insert:

(q)

Amendment 27

On page 6, line 34, strike out "(p)" and insert:

(r)

Amendment 28

On page 6, line 38, strike out "(q)" and insert:

(s)

Amendment 29

On page 7, strike out lines 5 to 8, inclusive, and insert:

programming provided as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

Amendment 30

On page 7, line 9, strike out "(r)" and insert:

(t)

Amendment 31

On page 7, strike out line 10, and insert:

service.

Amendment 32

On page 7, strike out line 12, in line 13, strike out "Commission" and insert:

5840. (a) The commission

Amendment 33

On page 7, line 14, strike out "article" and insert:

division

Amendment 34

On page 7, line 15, strike out "department" and insert:

commission

Amendment 35

On page 7, line 17, strike out "fee or"

Amendment 36

On page 7, line 19, strike out "article" and insert:

division

Amendment 37

On page 7, lines 22 and 23, strike out "subdivisions (d) and (e)" and insert:

this section

Amendment 38

On page 7, line 23, strike out "department" and insert:

commission

## Amendment 39

On page 7, between lines 24 and 25, insert:

(c) The holder of a state franchise shall not be deemed a public utility as a result of providing video service under this division. This division shall not be construed as granting authority to the commission to regulate the rates, terms, and conditions of video services, except as explicitly set forth in this division.

## Amendment 40

On page 7, line 25, strike out "(c)" and insert:

(d)

## Amendment 41

On page 7, line 26, strike out "after January 1, 2007," and insert:

for which a franchise has not already been issued, after January 1, 2008,

## Amendment 42

On page 7, lines 27 and 28, strike out "department. The department" and insert:

commission. The commission

## Amendment 43

On page 7, between lines 30 and 31, insert:

(e) No person or corporation shall be eligible for a state-issued franchise if that person or corporation is in violation of any final nonappealable order issued pursuant to this division.

## Amendment 44

On page 7, line 31, strike out "(d)" and insert:

(f)

## Amendment 45

On page 7, line 32, strike out "department" and insert:

commission

90366

Amendment 46

On page 8, line 6, strike out "5800.7" and insert:

5890

Amendment 47

On page 8, line 9, strike out "5800.8" and insert:

5900

Amendment 48

On page 8, line 11, strike out "5800.5" and insert:

5860

Amendment 49

On page 8, line 13, after "channels" insert:

and the required funding

Amendment 50

On page 8, line 14, strike out "5800.5" and insert:

subdivision (r)

Amendment 51

On page 8, strike out lines 32 to 39, inclusive, and insert:

(6) A description of the video service area footprint that is proposed to be served, as identified by a collection of United States Census Bureau Block numbers (13 digit) or a geographic information system digital boundary meeting or exceeding national map accuracy standards. This description shall include the socioeconomic status information of all residents within the service area footprint.

(7) If the applicant is a telephone corporation or an affiliate of a telephone corporation, as defined in Section 234, a description of the territory in which the company provides telephone service. The description shall include socioeconomic status information of all residents within the telephone corporation's service territory.



Amendment 52

On page 9, line 9, strike out "(e) (1) The department" and insert:

(g) (1) The commission

Amendment 53

On page 9, line 11, strike out "affidavit described by subdivision (e)" and insert:

application

Amendment 54

On page 9, line 14, strike out "department" and insert:

commission

Amendment 55

On page 9, line 17, strike out "department" and insert:

commission

Amendment 56

On page 9, line 20, strike out "department" and insert:

commission

Amendment 57

On page 9, line 23, strike out "department" and insert:

commission

Amendment 58

On page 9, line 28, strike out "(f)" and insert:

(h)

Amendment 59

On page 9, line 28, strike out "department" and insert:

commission

Amendment 60

On page 9, line 30, strike out ", in exchange" strike out line 31, and in line 32 strike out "subdivision (o),"

Amendment 61

On page 9, line 34, after "rights-of-way" insert:

, in exchange for the franchise fee adopted under Section 5860,

Amendment 62

On page 10, line 1, strike out "(g)" and insert:

(i)

Amendment 63

On page 10, line 1, strike out "department" and insert:

commission

Amendment 64

On page 10, line 3, strike out "department" and insert:

commission

Amendment 65

On page 10, between lines 3 and 4, insert:

(j) It is unlawful to provide video service without a state or locally issued franchise.

Amendment 66

On page 10, line 4, strike out "(h)" and insert:

(k)

Amendment 67

On page 10, line 4, strike out "article" and insert:

division

Amendment 68

On page 10, line 8, strike out "department" and insert:

commission

Amendment 69

On page 10, line 9, strike out "(i)" and insert:

(l)

Amendment 70

On page 10, line 10, strike out "department" and insert:

commission

Amendment 71

On page 10, line 11, strike out "department" and insert:

commission

Amendment 72

On page 10, line 19, strike out "department" and insert:

commission

Amendment 73

On page 10, line 20, strike out "amended" and insert:

proposed amendment to the

## Amendment 74

On page 10, line 29, strike out "article" and insert:

division

## Amendment 75

On page 10, line 34, strike out "article" and insert:

division

## Amendment 76

On page 10, strike out lines 38 to 40, inclusive, on page 11, strike out lines 1 to 39, inclusive, and insert:

(m) Prior to offering video service in a local entity's jurisdiction, the holder of a state franchise shall notify the local entity that the video service provider will provide video service in the local entity's jurisdiction. The notice shall be given at least 10 days, but no more than 60 days, before the video service provider begins to offer service.

(n) (1) Commencing three months after issuance of the holder's first state franchise, the holder shall report information as of June 30 and December 31 of each year regarding the extent to which it provides video service and broadband service within this state. The reports shall be filed with the commission no later than 30 days after the conclusion of each six-month reporting period, and the reports shall include the following information as designated by individual census tracts:

(A) The socioeconomic status information of each census tract where the holder or its affiliates provides video service.

(B) The socioeconomic status information of each census tract where the holder or its affiliates provide broadband service.

(C) The number of households in each census tract that have access to the holder's or its affiliates' video service.

(D) The number of households in each census tract that have access to the holder's or its affiliates' broadband service.

(E) The number of households in each census tract that use broadband service provided by the holder or its affiliates.

(F) The number of households in each census tract that use video service provided by the holder or its affiliates.

(G) The socioeconomic status information of the portion of each census tract included in the holder's or its affiliates' video service area footprint.

(H) The socioeconomic status information of the portion of each census tract included in the holder's or its affiliates' video service area footprint.

(I) The technology used by the holder or its affiliates to provide access to video service it offers in each census tract. Specification, by census tract, types of

technology and the number of households provided video access by each holder or its affiliates.

(J) The technology used by the holder or its affiliates to provide access to broadband service it offers in each census tract. Specification, by census tract, types of technology and the number of households provided broadband access by each holder or its affiliates.

(K) Whether the holder or its affiliates are in compliance with the provisions set forth in Section 5890.

(L) A brief description of any issues related to providing access to broadband service and video service within California, as provided under this article.

(2) These reports shall be filed with the Legislature, the commission, the Governor, and the Attorney General, and posted on the holder's Internet Web site, no later than 30 days after the conclusion of each six-month reporting period.

Amendment 77

On page 12, line 1, strike out "(m)" and insert:

(o)

Amendment 78

On page 12, line 5, after "expiration" insert:

, prior to any renewal or extension,

Amendment 79

On page 12, line 8, strike out "department" and insert:

commission

Amendment 80

On page 12, line 9, strike out "(A)"

Amendment 81

On page 12, lines 10 and 11, strike out "subdivision (j) of Section 5800.3" and insert:

subdivision (m)

Amendment 82

On page 12, line 12, strike out "10 days" and insert:

all or part of that jurisdiction

Amendment 83

On page 12, line 15, after the period insert:

The franchise issued by the local franchising entity shall terminate and be replaced by a state franchise when the state franchising authority issues a state franchise for the video service provider that includes the entire service area served by the video service provider and the video service provider notifies the local entity that it will begin providing video service in that area under a state franchise.

Amendment 84

On page 12, strike out lines 16 to 21, inclusive

Amendment 85

On page 12, line 22, strike out "(C)" and insert:

(p)

Amendment 86

On page 12, lines 22 and 23, strike out "a video service provider" and insert:

an incumbent cable operator

Amendment 87

On page 12, line 26, strike out "terminated." and insert:

expired. However, an incumbent cable operator that is also a telephone corporation with less than 1,000,000 telephone customers in California and is providing video service in competition with another incumbent cable operator shall not be required to provide service beyond the area in which it is providing service as of January 1, 2007.

Amendment 88

On page 12, strike out lines 28 to 30, inclusive

## Amendment 89

On page 12, line 31, strike out "(o)" insert:

(q) (1)

## Amendment 90

On page 12, line 33, strike out "article" and insert:

division

## Amendment 91

On page 12, line 35, strike out "5800.4" and insert:

5860

## Amendment 92

On page 13, line 1, strike out "5800.4" and insert:

5860

## Amendment 93

On page 13, line 2, strike out "The" and insert:

(2) (A) The

## Amendment 94

On page 13, line 4, after the period, insert:

(B) Notwithstanding subparagraph (A), if the video service provider is leasing access to a network owned by a local entity, the local entity may set a franchise fee for access to the network different from the franchise fee charged to a video service provider for access to the rights-of-way to install its own network.

## Amendment 95

On page 13, between lines 4 and 5, insert:

5850. (a) A state issued franchise shall only be valid for 10 years after the date of issuance, and the video service provider shall apply for a renewal of the state franchise for an additional 10-year period if it wishes to continue to provide video services in the area covered by the franchise after the expiration of the franchise.

(b) Except as provided in this section, the criteria and process described in Section 5840 shall apply to a renewal registration, and the commission shall not impose any additional or different criteria.

(c) Renewal of a state franchise shall be consistent with federal law and regulations.

(d) The commission shall not renew the franchise if the video service provider is in violation of any final nonappealable court order issued pursuant to this division.

Amendment 96

On page 13, line 10, strike out "5800.4." and insert:

5860.

Amendment 97

On page 13, line 13, strike out "(o) of Section 5800.3" and insert:

(q) of Section 5840

Amendment 98

On page 13, line 14, strike out "state"

Amendment 99

On page 14, line 9, strike out "section" and insert:

division

Amendment 100

On page 14, line 18, after "franchise" insert:

, as determined in accordance with generally accepted accounting principles,

Amendment 101

On page 14, line 27, strike out "Any" and insert:

Franchise

Amendment 102

On page 15, strike out lines 4 and 5



## Amendment 103

On page 16, line 21, after "of" insert:

specific, identifiable

## Amendment 104

On page 16, strike out lines 27 to 36, inclusive, and insert:

(f) For the purposes of this section, in the case of a video service that may be bundled or integrated functionally with other services, capabilities, or applications, the state franchise fee shall be applied only to the gross revenue, as defined in subdivision (d), attributable to video service. Where the holder of a state franchise or any affiliate bundles, integrates, ties, or combines video services with nonvideo services creating a bundled package, so that subscribers pay a single fee for more than one class of service or receive a discount on video services, gross revenues shall be determined based on an equal allocation of the package discount, that is, the total price of the individual components at advertised rates compared to the package price, among all services comprising the package. The fact that the holder of a state franchise offers a bundled package shall not be deemed a promotional activity. If the holder of a state franchise does not offer any component of the bundled package separately, the holder of a state franchise shall declare a stated retail value for each component based on reasonable comparable prices for the product or service for the purpose of determining franchise fees based on the package discount described above.

(g) For the purposes of determining gross revenue under this division, a video service provider shall use the same method of determining revenues under generally accepted accounting principals as that which the video service provider uses in determining revenues for the purpose of reporting to national and state regulatory agencies.

## Amendment 105

On page 16, line 37, strike out "(g)" and insert:

(h)

## Amendment 106

On page 17, line 7, strike out "(h)" and insert:

(i)

Amendment 107

On page 17, line 30, strike out "(i)" and insert:

(j)

Amendment 108

On page 17, strike out lines 33 to 40, inclusive, on page 18, strike out lines 1 to 6, inclusive

Amendment 109

On page 18, line 8, strike out "5800.5." and insert:

5870.

Amendment 110

On page 18, lines 11 and 12, strike out "that the incumbent cable operator has activated and provided" and insert:

as are activated and provided by the incumbent cable operator that has simultaneously activated and provided the greatest number of PEG channels

Amendment 111

On page 18, line 17, strike out "six" and insert:

three

Amendment 112

On page 18, line 19, strike out "six-month" and insert:

three-month

Amendment 113

On page 18, line 27, after "advertising" insert:

, underwriting,

Amendment 114

On page 19, line 1, strike out "no" and insert:

less than three

Amendment 115

On page 19, line 4, after "may" insert:

initially

Amendment 116

On page 19, line 6, strike out "six" and insert:

three

Amendment 117

On page 19, line 7, strike out "six-month" and insert:

three-month

Amendment 118

On page 19, line 14, after "nonduplicated" insert:

video

Amendment 119

On page 19, line 20, after "day" insert:

as measured on a quarterly basis

Amendment 120

On page 19, line 33, after "is" insert:

compatible with the holder's network, if the local entity produces or maintains the PEG programming in that manner or form. If the local entity does not produce or maintain PEG programming in that manner or form, then the local entity may submit or provide PEG programming in a manner or form that is

## Amendment 121

On page 19, line 37, after the period insert:

If the holder is required to change the form of the transmission, the local entity shall permit the holder to do so in a manner that is most economical to the holder.

## Amendment 122

On page 20, strike out lines 1 and 2, and insert:

or programming. The holder may carry the transmission, content, or programming outside of the local entity's jurisdiction if the holder agrees to pay the local entity or its designee any incremental licensing costs incurred by the local entity or its designee associated with that transmission. Local entities shall be prohibited from entering into licensing agreements that impose higher costs for transmission to subscribers outside the local entity's jurisdiction.

## Amendment 123

On page 20, line 20, after the period, insert:

The cost of any interconnection shall be borne by the holder requesting the interconnection unless otherwise agreed to by the parties.

## Amendment 124

On page 20, line 33, strike out "(k)" and insert:

(i)

## Amendment 125

On page 20, strike out lines 34 to 38, inclusive, and insert:

designate, and, upon request, activate a channel for carriage of state public affairs programming administered by the state.

## Amendment 126

On page 20, between lines 38 and 39, insert:

(k) All obligations to provide and support PEG channel facilities and institutional networks and to provide cable services to community buildings contained in a locally issued franchise existing on December 31, 2006, shall continue until the local franchise expires, until the term of the franchise would have expired if

it had not been terminated pursuant to subdivision (o) of Section 5840, or until January 1, 2009, whichever is later.

Amendment 127

On page 20, line 39, strike out "(k)" and insert:

(l)

Amendment 128

On page 21, strike out line 3, and insert

costs of public, educational, and government access

Amendment 129

On page 21, line 4, after "facilities" insert:

or institutional networks

Amendment 130

On page 21, line 10, strike out "(l)" and insert:

(m)

Amendment 131

On page 21, strike out lines 27 to 39, inclusive, on page 22, strike out lines 1 to 9, inclusive, and insert:

(n) A local entity may, by ordinance, establish a fee to support PEG channel facilities consistent with federal law that would become effective subsequent to the expiration of any fee imposed pursuant to paragraph (2) of subdivision (l). If no such fee exists, the local entity may establish the fee at any time. the fee shall not exceed 1 percent of the holder's gross revenues, as defined in Section 5860. Notwithstanding this limitation, if, on December 31, 2006, a local entity imposes a separate fee to support PEG channel facilities that is in excess of 1 percent, that entity may, by ordinance, establish a fee no greater than that separate fee, and in no event greater than 3 percent, to support PEG activities. The ordinance shall expire, and may be reauthorized, upon the expiration of the state franchise.

## Amendment 132

On page 22, line 21, strike out "5800.6." and insert:

5880.

## Amendment 133

On page 22, line 24, after the period insert:

Any provision in a locally issued franchise authorizing local entities to provide local emergency notifications shall remain in effect, and shall apply to all holders of a state-issued franchise in the same local area, for the duration of the locally issued franchise, until the term of the franchise would have expired were the franchise not terminated pursuant to subdivision (m) of Section 5840, or until January 1, 2009, whichever is later.

## Amendment 134

On page 22, line 31, strike out "5800.7." and insert:

5885.

## Amendment 135

On page 22, between lines 36 and 37, insert:

(b) Nothing in this article shall be construed to change existing law regarding the permitting process or compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for construction projects by a holder of a state franchise.

## Amendment 136

On page 22, line 37, strike out "(b)" and insert:

(c)

## Amendment 137

On page 23, line 2, strike out "5800.8." and insert:

5890.

Amendment 138

On page 23, line 3, strike out "article" and insert:

division

Amendment 139

On page 23, line 7, strike out "with more than 500,000" and insert:

or their affiliates with more than 1,000,000

Amendment 140

On page 23, line 8, strike out "this section" and insert:

subdivision (a)

Amendment 141

On page 23, line 11, strike out "article" and insert:

division

Amendment 142

On page 23, line 14, strike out "article" and insert:

division and continuing thereafter

Amendment 143

On page 23, strike out lines 16 to 36, inclusive, and insert:

(3) Holders provide service to community centers in underserved areas, as determined by the holder, without charge, at a ratio of one community center for every 10,000 video customers. The holder shall not be required to take its facilities beyond the appropriate demarcation point outside the community center building or perform any inside wiring. The community center may not receive service from more than one state franchise holder at a time under this section. For purposes of this section, "community center" means any facility ran by an organization that has qualified for the California Teleconnect Fund, as established in Section 280 and that will make the holder's service available to the community.

(c) Holders or their affiliates with fewer than 1,000,000 telephone customers in California satisfy this section if they offer video service to all customers within their telephone service area within a reasonable time, as determined by the commission. However, the commission shall not require the holder to offer video service when the

cost to provide video service is substantially above the average cost of providing video service in that telephone service area.

(d) When a holder provides video service outside of its telephone service area or when a holder offers video service in an area where no other video service is being offered, other than direct-to-home satellite service, there is a rebuttable presumption that discrimination in providing service has not occurred within those areas.

Amendment 144

On page 23, line 37, strike out "(d) For holders with more than 500,000" and insert:

(e) For holders or their affiliates with more than 1,000,000

Amendment 145

On page 24, line 4, strike out "article" and insert:

division

Amendment 146

On page 24, line 7, strike out "premise" and insert:

premises

Amendment 147

On page 24, line 11, strike out "article" and insert:

division

Amendment 148

On page 24, between lines 12 and 13 insert:

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

Amendment 149

On page 24, line 18, strike out "If" and insert:

(4) If



Amendment 150

On page 24, line 21, strike out "shall" and insert:

may

Amendment 151

On page 24, line 22, strike out "is satisfied" and insert:

finds

Amendment 152

On page 24, line 27, after "households" insert:

for six consecutive months

Amendment 153

On page 24, line 28, strike out "(e) (1) After two years" and insert:

(f) (1) After two years of providing service under this division

Amendment 154

On page 24, line 29, strike out "a waiver of" and insert:

an extension to meet

Amendment 155

On page 24, line 30, strike out "(d)" and insert:

(e)

Amendment 156

On page 24, line 36, strike out "(d)" and insert:

(e)

Amendment 157

On page 25, line 10, strike out "waiver" and insert:

extension

Amendment 158

On page 25, line 12, strike out "(d)" and insert:

(e)

Amendment 159

On page 25, line 12, strike out "a waiver" and insert:

an extension

Amendment 160

On page 25, line 13, strike out "new requirements" and insert:

a new compliance deadline

Amendment 161

On page 25, line 14, strike out "(f)" and insert:

(g)

Amendment 162

On page 25, line 16, strike out "article" and insert:

division

Amendment 163

On page 25, line 18, after the period, insert:

The commission may suspend or revoke the franchise if the holder fails to comply with the provisions of this division.

Amendment 164

On page 25, line 19, strike out "(g)" and insert:

(h)

Amendment 165

On page 25, line 20, strike out "article" and insert:

section

Amendment 166

On page 25, line 25, strike out "(h)" and insert:

(i)

Amendment 167

On page 25, line 26 and 27, strike out "the holder's state franchise shall immediately terminate" and insert:

the court may immediately terminate the holder's state franchise,

Amendment 168

On page 25, line 32, strike out "(i)" and insert:

(j)

Amendment 169

On page 26, line 1, strike out "as"

Amendment 170

On page 26, line 7, strike out "as"

Amendment 171

On page 26, strike out lines 26 and 27, and insert:

similar two-way broad band Internet accessibility and similar video programming.

Amendment 172

On page 26, line 28, strike out "(j)" and insert:

(k)

Amendment 173

On page 26, line 32, strike out "5800.9. (a) (1)" and insert:

5900. (a)

Amendment 174

On page 26, strike out lines 37 and 38, and insert:

regulation or adopted by

Amendment 175

On page 26, line 39, after the period, insert:

All customer service and consumer protection standards under this section shall be interpreted and applied to accommodate newer or different technologies while meeting or exceeding the goals of the standards.

Amendment 176

On page 27, line 1, strike out "(2)" and insert:

(b)

Amendment 177

On page 27, line 5, strike out "(b)" and insert:

(c)

Amendment 178

On page 28, line 15, strike out "(c) The local entity may, by ordinance," and insert:

(d) The local entity shall

Amendment 179

On page 28, line 16, strike out "violation" and insert:

material breach

Amendment 180

On page 28, line 17, strike out "violation" and insert:

material breach

Amendment 181

On page 28, line 22, strike out "violation" and insert:

material breach

Amendment 182

On page 28, line 23, strike out "violation" and insert:

material breach

Amendment 183

On page 28, line 24, strike out "violation" and insert:

material breach

Amendment 184

On page 28, lines 24 and 25, strike out "city, county, or city and county" and insert:

local entity

Amendment 185

On page 28, line 26, strike out "violation" and insert:

material breach

Amendment 186

On page 28, line 28, strike out "city, county, or city and county" and insert:

local entity

Amendment 187

On page 28, line 29, strike out "violation" and insert:

material breach

Amendment 188

On page 28, line 31, strike out "violation. If a third or further violation" and insert:

material breach. If a third or further material breach

Amendment 189

On page 28, lines 32 and 33, strike out "city, county, or city and county" and insert:

local entity

Amendment 190

On page 28, line 36, strike out "violation" and insert:

material breach

Amendment 191

On page 28, line 37, strike out "violation" and insert:

material breach

Amendment 192

On page 29, strike out lines 5 and 6

Amendment 193

On page 29, line 7, strike out "(1)" and insert:

(e)

Amendment 194

On page 29, line 8, strike out "violations" and insert:

material breaches

Amendment 195

On page 29, line 10, strike out "violation" and insert:

material breach

Amendment 196

On page 29, line 11, strike out "(2) A violation" and insert:

(f) A material breach

Amendment 197

On page 29, line 14, strike out "paragraph (1)" and insert:

subdivision (e)

Amendment 198

On page 29, line 14, strike out "violation" and insert:

material breach

Amendment 199

On page 29, between lines 15 and 16 insert:

(g) Any penalty shall be provided to the local entity who shall submit one-half of the penalty to the Digital Divide Account established in Section 280.5.

(h) Any interested person may seek judicial review of a decision of the local entity in a court of appropriate jurisdiction. For this purpose, a court of law shall conduct a de novo review of any issues presented.

Amendment 200

On page 29, line 16, strike out "(e)" and insert:

(i)

Amendment 201

On page 29, line 19, after "a" insert:

local

Amendment 202

On page 29, line 21, strike out "may" and insert:

shall

Amendment 203

On page 29, between lines 22 and 23, insert:

(j) For purposes of this section, "material breach" has the same meaning as in Section 53088.1 of the Government Code.

Amendment 204

On page 29, line 23, strike out "5800.10." and insert:

5910.

Amendment 205

On page 30, line 17, strike out "5800.11." and insert:

5920.

Amendment 206

On page 31, strike out lines 9 to 16, inclusive and insert:

5930. (a) Notwithstanding any other provision of this division, any video service provider that currently holds a franchise with a local franchising entity in a county that is a party, either alone or in conjunction with any other local franchising entity located in that county, to a stipulation and consent judgment executed by the parties thereto and approved by a federal district court shall neither be entitled to seek a state franchise in any area of that county, including any unincorporated area and any incorporated city of that county, nor abrogate any existing franchise before July 1, 2014. Prior to July 1, 2014, the video service provider shall continue to be exclusively governed by any existing franchise with a local franchising entity for the term of that franchise and any and all issues relating to renewal, transfer, or otherwise in relation to that franchise shall be resolved pursuant to that existing franchise and otherwise



applicable federal, state, and local law. This subdivision shall not be deemed to extend any existing franchise beyond its term.

(b) When an incumbent cable operator is providing service under an expired franchise or a franchise that expires before January 2, 2008, any state-issued franchise shall not become operative prior to January 2, 2008.

(c) When a video service provider that holds a state franchise provides the notice required pursuant to subdivision (m) of Section 5840 to a local entity, the local franchising entity may require all incumbent cable operators to seek a state franchise and shall terminate the franchise issued by the local franchising entity when the commission issues a state franchise for the video service provider that includes the entire service area served by the video service provider and the video service provider notifies the local entity that it will begin providing video service in that area under a state franchise.

5940. The holder of a state franchise under this division who also provides stand-alone, residential, primary line, basic telephone service shall not increase this rate to finance the cost of deploying a network to provide video service.

5950. The commission shall not permit a telephone corporation that is providing video service directly or through its affiliates pursuant to a state-issued franchise as an incumbent local exchange carrier to increase rates for residential, primary line, basic telephone service above the rate as of July 1, 2006, until January 1, 2009, unless that telephone corporation is regulated under rate of return regulation. However, the commission may allow rate increases to reflect increases in inflation as shown in the Consumer Price Index published by the Bureau of Labor Statistics. This section does not affect the authority of the commission to increase rates for basic telephone service that is bundled with other services and priced as a bundle. Nothing in this section is intended to prohibit implementation of commission decision D. 06-04-071 to the extent it has not been implemented prior to July 1, 2006

#### Amendment 207

On page 31, strike out lines 17 to 39, inclusive, on page 32, strike out lines 1 to 33, inclusive, and insert:

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 either a cable television franchise or license granted pursuant to Section 53066 of the Government Code (a "cable television possessory interest") or a state franchise to provide video service pursuant to Section 5840 of the Public Utilities Code, 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 or video service possessory interest by the assessor 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 or video service possessory interest for the actual remaining term or the reasonably 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 or video service 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 or the provider of video services 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 or video service system for a specified franchise term (excepting therefrom 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 or video service possessory interest may be assessed and valued by assuming the presence of intangible assets or rights necessary to put the cable television possessory interest or video service possessory interest to beneficial or productive use in an operating cable television system or video service system.

(e) Whenever any change in ownership of a cable television possessory interest or video service 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 or video service 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 dollars (\$5,000).


#### Amendment 208

On page 32, between lines 33 and 34, insert:

SEC. 3. (a) It is the intent of the Legislature that video service providers shall pay as rent a franchise fee to the local entity in which service is being provided for the continued use of streets, public facilities, and other rights-of-way of the local entity in order to provide service.

(b) It is the intent of the Legislature that securing a state franchise by a cable television operator or video service provider pursuant to this act shall not affect the existing requirements governing the valuation of possessory interests as set forth in Section 107.7 of the Revenue and Taxation Code. Furthermore, nothing in this act shall be construed to change the existing jurisdiction of the State Board of

Equalization and county assessors with respect to the assessment of these properties for property tax purposes.



Amendment 209

On page 32, strike out lines 34 to 40, inclusive, strike out page 33, and insert:

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or 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.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.