

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

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Substantive

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,

