

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

**Offered By**

1 AMEND Senate Bill No. 652, Page 1, Section A, Line 3, by inserting after all of said section and  
2 line the following:

3  
4 "67.2677. 1. For purposes of sections 67.2675 to 67.2714, the following terms mean:

5 (1) "Cable operator", as defined in 47 U.S.C. Section 522(5);

6 (2) "Cable system", as defined in 47 U.S.C. Section 522(7);

7 (3) "Franchise", an initial authorization, or renewal of an authorization, issued by a  
8 franchising entity, regardless of whether the authorization is designated as a franchise, permit,  
9 license, resolution, contract, certificate, agreement, or otherwise, that authorizes the provision of  
10 video service and any affiliated or subsidiary agreements related to such authorization;

11 (4) "Franchise area", the total geographic area authorized to be served by an incumbent  
12 cable operator in a political subdivision as of August 28, 2007, or, in the case of an incumbent local  
13 exchange carrier, as such term is defined in 47 U.S.C. Section 251(h), or affiliate thereof, the area  
14 within such political subdivision in which such carrier provides telephone exchange service;

15 (5) "Franchise entity", a political subdivision that was entitled to require franchises and  
16 impose fees on cable operators on the day before the effective date of sections 67.2675 to 67.2714,  
17 provided that only one political subdivision may be a franchise entity with regard to a geographic  
18 area;

19 (6) (a) "Gross revenues", limited to amounts billed to video service subscribers for the  
20 following:

21 a. Recurring charges for video service; and

22 b. Event-based charges for video service, including but not limited to pay-per-view and  
23 video-on-demand charges;

24 (b) "Gross revenues" do not include:

25 a. Discounts, refunds, and other price adjustments that reduce the amount of compensation  
26 received by an entity holding a video service authorization;

27 b. Uncollectibles;

28 c. Late payment fees;

29 d. Amounts billed to video service subscribers to recover taxes, fees, or surcharges imposed  
30 on video service subscribers or video service providers in connection with the provision of video

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 services, including the video service provider fee authorized by this section;

2 e. Fees or other contributions for PEG or I-Net support;

3 f. Charges for services other than video service that are aggregated or bundled with amounts  
4 billed to video service subscribers, if the entity holding a video service authorization reasonably can  
5 identify such charges on books and records kept in the regular course of business or by other  
6 reasonable means;

7 g. Rental of set top boxes, modems, or other equipment used to provide or facilitate the  
8 provision of video service;

9 h. Service charges related to the provision of video service including, but not limited to,  
10 activation, installation, repair, and maintenance charges;

11 i. Administrative charges related to the provision of video service including, but not limited  
12 to, service order and service termination charges; or

13 j. A pro rata portion of all revenue derived from advertising, less refunds, rebates, or  
14 discounts;

15 (c) Except with respect to the exclusion of the video service provider fee, gross revenues  
16 shall be computed in accordance with generally accepted accounting principles;

17 (7) "Household", an apartment, a house, a mobile home, or any other structure or part of a  
18 structure intended for residential occupancy as separate living quarters;

19 (8) "Incumbent cable operator", the cable service provider serving cable subscribers in a  
20 particular franchise area on September 1, 2007;

21 (9) "Low-income household", a household with an average annual household income of less  
22 than thirty-five thousand dollars;

23 (10) "Person", an individual, partnership, association, organization, corporation, trust, or  
24 government entity;

25 (11) "Political subdivision", a city, town, village, county;

26 (12) "Public right-of-way", the area of real property in which a political subdivision has a  
27 dedicated or acquired right-of-way interest in the real property, including the area on, below, or  
28 above the present and future streets, alleys, avenues, roads, highways, parkways, or boulevards  
29 dedicated or acquired as right-of-way and utility easements dedicated for compatible uses. The term  
30 does not include the airwaves above a right-of-way with regard to wireless telecommunications or  
31 other nonwire telecommunications or broadcast service;

32 (13) "Video programming", programming provided by, or generally considered comparable  
33 to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section  
34 522(20);

35 (14) "Video service", the provision, by a video service provider, of video programming  
36 provided through wireline facilities located at least in part in the public right-of-way without regard  
37 to delivery technology, including internet protocol technology, whether provided as part of a tier, on  
38 demand, or on a per-channel basis. This definition includes cable service as defined by 47 U.S.C.  
39 Section 522(6), but does not include any video programming provided by a commercial mobile

1 service provider defined in 47 U.S.C. Section 332(d), or any video programming ~~[provided solely as~~  
 2 ~~part of and]~~ accessed via a service that enables users to access content, information, electronic mail,  
 3 or other services offered over the ~~[public]~~ internet, including streaming content;

4 (15) "Video service authorization", the right of a video service provider or an incumbent  
 5 cable operator that secures permission from the public service commission pursuant to sections  
 6 67.2675 to 67.2714, to offer video service to subscribers in a political subdivision;

7 (16) "Video service network", wireline facilities, or any component thereof, located at least  
 8 in part in the public right-of-way that deliver video service, without regard to delivery technology,  
 9 including internet protocol technology or any successor technology. The term video service network  
 10 shall include cable systems;

11 (17) "Video service provider", any person that distributes video service through a video  
 12 service network pursuant to a video service authorization;

13 (18) "Video service provider fee", the fee imposed under section 67.2689.

14 2. The repeal and reenactment of this section shall become effective August 28, 2023.  
 15 67.2677. For purposes of sections 67.2675 to 67.2714, the following terms mean:

16 (1) "Cable operator", as defined in 47 U.S.C. Section 522(5);

17 (2) "Cable system", as defined in 47 U.S.C. Section 522(7);

18 (3) "Franchise", an initial authorization, or renewal of an authorization, issued by a  
 19 franchising entity, regardless of whether the authorization is designated as a franchise, permit,  
 20 license, resolution, contract, certificate, agreement, or otherwise, that authorizes the provision of  
 21 video service and any affiliated or subsidiary agreements related to such authorization;

22 (4) "Franchise area", the total geographic area authorized to be served by an incumbent  
 23 cable operator in a political subdivision as of August 28, 2007, or, in the case of an incumbent local  
 24 exchange carrier, as such term is defined in 47 U.S.C. Section 251(h), or affiliate thereof, the area  
 25 within such political subdivision in which such carrier provides telephone exchange service;

26 (5) "Franchise entity", a political subdivision that was entitled to require franchises and  
 27 impose fees on cable operators on the day before the effective date of sections 67.2675 to 67.2714,  
 28 provided that only one political subdivision may be a franchise entity with regard to a geographic  
 29 area;

30 (6) (a) "Gross revenues", limited to amounts billed to video service subscribers or received  
 31 from advertisers for the following:

32 a. Recurring charges for video service;

33 b. Event-based charges for video service, including but not limited to pay-per-view and  
 34 video-on-demand charges;

35 c. Rental of set top boxes and other video service equipment;

36 d. Service charges related to the provision of video service, including but not limited to  
 37 activation, installation, repair, and maintenance charges;

38 e. Administrative charges related to the provision of video service, including but not limited  
 39 to service order and service termination charges; and

- 1 f. A pro rata portion of all revenue derived, less refunds, rebates, or discounts, by a video  
2 service provider for advertising over the video service network to subscribers within the franchise  
3 area where the numerator is the number of subscribers within the franchise area, and the  
4 denominator is the total number of subscribers reached by such advertising;
- 5 (b) "Gross revenues" do not include:
- 6 a. Discounts, refunds, and other price adjustments that reduce the amount of compensation  
7 received by an entity holding a video service authorization;
- 8 b. Uncollectibles;
- 9 c. Late payment fees;
- 10 d. Amounts billed to video service subscribers to recover taxes, fees, or surcharges imposed  
11 on video service subscribers or video service providers in connection with the provision of video  
12 services, including the video service provider fee authorized by this section;
- 13 e. Fees or other contributions for PEG or I-Net support; or
- 14 f. Charges for services other than video service that are aggregated or bundled with amounts  
15 billed to video service subscribers, if the entity holding a video service authorization reasonably can  
16 identify such charges on books and records kept in the regular course of business or by other  
17 reasonable means;
- 18 (c) Except with respect to the exclusion of the video service provider fee, gross revenues  
19 shall be computed in accordance with generally accepted accounting principles;
- 20 (7) "Household", an apartment, a house, a mobile home, or any other structure or part of a  
21 structure intended for residential occupancy as separate living quarters;
- 22 (8) "Incumbent cable operator", the cable service provider serving cable subscribers in a  
23 particular franchise area on September 1, 2007;
- 24 (9) "Low-income household", a household with an average annual household income of less  
25 than thirty-five thousand dollars;
- 26 (10) "Person", an individual, partnership, association, organization, corporation, trust, or  
27 government entity;
- 28 (11) "Political subdivision", a city, town, village, or county;
- 29 (12) "Public right-of-way", the area of real property in which a political subdivision has a  
30 dedicated or acquired right-of-way interest in the real property, including the area on, below, or  
31 above the present and future streets, alleys, avenues, roads, highways, parkways, or boulevards  
32 dedicated or acquired as right-of-way and utility easements dedicated for compatible uses. The term  
33 does not include the airwaves above a right-of-way with regard to wireless telecommunications or  
34 other nonwire telecommunications or broadcast service;
- 35 (13) "Video programming", programming provided by, or generally considered comparable  
36 to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section  
37 522(20);
- 38 (14) "Video service", the provision, by a video service provider, of video programming  
39 provided through wireline facilities located at least in part in the public right-of-way without regard

to delivery technology, including internet protocol technology, whether provided as part of a tier, on demand, or on a per-channel basis. This definition includes cable service as defined by 47 U.S.C. Section 522(6), but does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. Section 332(d), or any video programming ~~[provided solely as part of and]~~ accessed via a service that enables users to access content, information, electronic mail, or other services offered over the ~~[public]~~ internet, including streaming content;

(15) "Video service authorization", the right of a video service provider or an incumbent cable operator that secures permission from the public service commission pursuant to sections 67.2675 to 67.2714, to offer video service to subscribers in a political subdivision;

(16) "Video service network", wireline facilities, or any component thereof, located at least in part in the public right-of-way that deliver video service, without regard to delivery technology, including internet protocol technology or any successor technology. The term video service network shall include cable systems;

(17) "Video service provider", any person that distributes video service through a video service network pursuant to a video service authorization;

(18) "Video service provider fee", the fee imposed under section 67.2689.

67.2691. 1. A franchise entity shall have the authority to audit any video service provider, which provides video service to subscribers within the geographic area of the franchise entity, not more than once per calendar year.

2. A video service provider shall, upon request of the franchise entity conducting an audit, make available at the location where such records are kept in the normal course of business for inspection by the franchise entity all records pertaining to gross revenues received from the provision of video services provided to consumers located within the geographic area of the franchise entity.

3. Any expenses incurred by a franchise entity in conducting an audit of an entity holding a video service authorization shall be paid by the franchise entity.

4. Any suit with respect to a dispute arising out of or relating to the amount of the video service provider fee allegedly due to a franchise entity under section 67.2689 shall be filed by the public service commission under its own name or on behalf of the franchise entity seeking to recover an additional amount alleged to be due, or by a video service provider seeking a refund of an alleged overpayment, in a court of competent jurisdiction within two years following the end of the quarter to which the disputed amount relates. Any payment that is not challenged ~~[by a franchise entity]~~ within two years after it is paid or remitted shall be deemed accepted in full payment ~~[by the franchise entity]~~.

5. A franchise entity shall not employ, appoint, or retain any person or entity for compensation that is dependent in any manner upon the outcome of an audit of a holder of video service authorization, including, without limitation, the audit findings or the recovery of fees or other payment by the municipality or county. A person may not solicit or accept compensation dependent in any manner upon the outcome of any such audit, including, without limitation, the

1 audit findings or the recovery of fees or other payment by the political subdivision or video service  
2 provider.

3 6. A video service provider shall not be required to retain financial records associated with  
4 the payment of the video service provider fee for longer than three years following the end of the  
5 quarter to which such payment relates, unless ~~[a franchise entity]~~ the public service commission has  
6 commenced a dispute regarding such payment in accordance with this section."; and

7  
8 Further amend said bill by amending the title, enacting clause, and intersectional references  
9 accordingly.