S T A T E O F N E W Y O R K

1099

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. SAYWARD, DUPREY, REILICH, SCOZZAFAVA, BACALLES, TEDISCO -- Multi-Sponsored by -- M. of A. BARCLAY, BURLING, CROUCH, ERRIGO, FINCH, HAWLEY, HAYES, KOLB, McDONOUGH, MOLINARO, OAKS, RAIA, TOBACCO, TOWNSEND, WALKER -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to create the 21st century telecommunications commission and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings and intent. The legislature hereby finds and declares that telecommunications services, specifically high speed broadband internet and mobile telephone service are necessary to the economic, cultural, and educational development of this state, and for the promotion of public safety. The legislature further finds and declares that there are broad discrepancies in the availability of 21st century telecommunications service throughout the state, with many urban and suburban areas fully served by broadband internet providers and mobile telephone service able to provide voice and data service, while sparsely populated regions of the state lack universal broadband internet and basic mobile telephone service.

Telecommunications has proven to be the lifeblood of 20th century commerce, and the relationship between telecommunications and economic development, education, and culture will likely grow in the 21st century. The telecommunications infrastructure of the state must be able to accommodate the needs of residents and businesses in the coming years. Because of the great variety of service levels, need, population density and market conditions, the telecommunications needs of the state will vary across communities, and the approach the state must take to address those needs will similarly vary. Therefore, a temporary state commission is hereby created to study the telecommunications needs of the state,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD03433-01-9

and to propose concrete recommendations to the governor and the legislature on means to remove regulatory and economic barriers to the expansion of modern telecommunication services.

S 2. 21st century telecommunications commission. 1. A state commission is hereby created to study and report to the governor, the temporary president of the senate and the speaker of the assembly on recommendations for promoting the development of broadband internet and wireless telecommunications services and infrastructure throughout the state to promote economic development, public safety, telemedicine, commerce, education and communication.

2. The commission shall study the regional differences in the availability of telecommunications service throughout the state, including the availability of broadband internet and wireless telephone infrastructure in urban, suburban, and rural areas, including within inhabited or improved portions of the Adirondack park. In evaluating the availability of telecommunications service, the commission shall consider the current and future broadband internet and mobile communications needs of businesses, not-for-profit associations and corporations, emergency services, local government agencies, health care facilities, and individuals located within the various regions, as well as telecommunications service available to persons traveling along interstate and other major highways in rural areas and the Adirondack park.

3. The commission shall consist of fifteen members, to be appointed as follows: ten members appointed by the governor, one of whom shall be appointed upon the recommendation of the temporary president of the senate, one of whom shall be appointed upon the recommendation of the minority leader of the senate, one of whom shall be appointed upon the recommendation of the speaker of the assembly, one of whom shall be appointed upon the recommendation of the minority leader of the assembly, one of whom shall be a representative of a statewide organization representing the business community, and one of whom shall be a representative of the higher education community; and the commissioner of education, the commissioner of environmental conservation, the commissioner of health, the director of the office for technology, and the chair of the public service commission shall serve as ex officio members, each of whom may appoint a deputy to represent them on the commission. The governor shall designate one commission member to serve as the chair of the commission. There shall also be five regional boards of the commission to consider the special needs of five regions as follows: region one shall include the counties of Nassau and Suffolk and the city of New York; region two shall include the counties of Columbia, Delaware, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester; region three shall include the counties of Albany, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren and Washington; region four shall include the counties of Broome, Cayuga, Chenango, Cortland, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Schuyler, Seneca, Saint Lawrence, Tioga and Tompkins; and region five shall include the counties of Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Steuben, Wayne, Wyoming, and Yates. The governor shall appoint five regional board members to each such regional board. Such regional board members shall be residents of a county in such region, and one of such regional board members shall be appointed on the recommendation of the chief executives of each of the three largest counties by population in such region, according to the most recent decennial census, provided however

that, in lieu of an appointment on the recommendation of the chief executive of a county, one such appointment shall be on the recommendation of the mayor of a city with a population greater than one million if such region includes such city. The members of the regional boards of the commission shall serve as members of the commission in matters relating to counties within the region from which they are appointed. Only in relation to matters affecting areas located within the Adirondack park, an appointed member of the Adirondack park agency board shall be designated and appointed by the governor to serve as a member of the commission and one member shall be appointed on the recommendation of the Adirondack Association of Towns and Villages. No person shall be appointed to the commission or regional board of the commission who is a current employee or officer of a business or corporation which provides telephone, internet, mobile telephone, satellite or cable television service to consumers.

4. (a) The commission shall hold public hearings throughout the state as it shall deem necessary, provided that the department shall hold not less than one meeting in each of the five regions of the commission, and one public hearing in the city of Albany.

(b) The commission shall specifically consider the appropriateness and effectiveness of broadband internet technologies including satellite, fiber optic, cable, digital subscriber lines, broadband over powerlines, wifi, and wimax. The commission shall also consider whether provision of a statewide cable franchise would improve access to broadband internet services without jeopardizing existing regional cable television providers, the feasibility of a universal service mandate for broadband internet service, the practicality of using government subsidies to offset the cost of developing broadband internet and mobile telephone infrastructure in sparsely populated areas, and the possibility of making existing state funded broadband connections available to commercial and residential customers at prevailing market rates in unserved areas.

(c) The commission shall recommend specific legislation, funding levels, changes in state regulation or policy, and any other action on the part of the state the commission deems necessary to improving existing broadband and mobile telephone accessibility in all areas of the state, and providing for the future telecommunications needs of businesses and individuals in the state.

5. The members of the commission shall receive no compensation for their services, however, they shall be allowed their actual and necessary expenses incurred in the performance of their duties.

6. No later than December 31, 2009, the commission shall make a report to the governor and legislature of its findings, conclusions, proposals and recommendations for the promotion of adequate telecommunications service in each of the five regions throughout the state.

7. All state agencies are hereby authorized and directed to provide assistance and available resources, as requested by the commission, in order to effectuate the purposes of this act.

S 3. This act shall take effect immediately and shall expire and be deemed repealed December 31, 2010.