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

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2011-2012 Regular Sessions

I N A S S E M B L Y

March 11, 2011

Introduced by M. of A. BRENNAN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to authorize and direct the department of public service to study and report on the current status of cable television systems operating and providing services to the customer premises over fiberoptic cables

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

Section 1. Legislative findings. The legislature hereby declares that the public interest is furthered by the broadest possible deployment of consumer-available high-speed internet service at reasonable prices, to the largest number of New York households and businesses as is practicable. Due to the ubiquity of such service provided by cable television companies, and such companies' provision of high-speed internet to the home and workplace, and the greater speeds demonstrated around the rest of the world by systems providing high-speed internet by fiberoptic cable to the premises, the legislature finds that it has a compelling interest in closer oversight of the cable television systems, whether completed or under construction, that provide such services and allow the citizens of the state of New York to access government or other services from home or otherwise remotely.

S 2. Study. a. The department of public service shall, within thirty days of the effective date of this act, undertake a study, pursuant to its duty under subdivision 11 of section 215 of the public service law, of the current status of cable television systems operating and providing services to the customer premises over fiberoptic cables. This study shall include:

(i) the total number of franchises such companies have or operate where service is provided to the customer premises over fiberoptic cable;

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

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(ii) the complete list of municipalities of franchises such companies have or operate where service is provided to the customer premises over fiberoptic cable;

(iii) a demographic analysis of the racial, ethnic and income characteristics of the residents of each municipality by franchise such companies have or operate where service is provided to the customer premises over fiberoptic cable based on the results of the most recent decennial census conducted by the census bureau of the United States;

(iv) a demographic analysis of the racial, ethnic and income characteristics of the residents of each municipality where such companies do not have or do not operate a franchise where service is provided to the customer premises over fiberoptic cable based on the results of the most recent decennial census conducted by the census bureau of the United States; and

(v) a further breakdown by county, where applicable, and region of the state of New York as defined by the empire state development corporation of the demographic analysis of the racial, ethnic and income characteristics of the residents of both the municipalities with which such companies have or operate a franchise where service is provided to the customer premises over fiberoptic cable and the municipalities with which such companies do not have or do not operate a franchise where service is provided to the customer premises over fiberoptic cable.

b. In furtherance of such study, the department shall require cable television companies operating or constructing cable television systems providing service over fiberoptic cables to the customer premises, to report to the department within sixty days of the effective date of this act the following:

(i) the total number of franchises such companies have or operate where service is provided to the customer premises over fiberoptic cable;

(ii) the percentage of completion of infrastructure construction and activation in each franchise such companies have or operate;

(iii) an analysis of such companies' franchises, broken down by region of the state, county and municipality, as applicable, showing the average time to completion of the infrastructure buildout of each franchise, or of the current status of a franchise buildout if it is not completed;

(iv) an analysis of such companies' franchises, broken down by census tract, showing the status of buildout of such census tracts, the average time to completion of the buildout in each census tract, and including data on whether any or all of such census tracts are distressed census tracts, as such are defined by the census bureau of the United States, and whether and how the time to completion of the buildout in any such distressed census tracts differs from the time to completion of buildout in non-distressed census tracts; and

(v) an analysis of the data provided for such report by the relevant cable companies, which shows any disparate buildout completion speed or franchise area coverage by race, ethnicity or income demographics.

c. Within ninety days of the effective date of this act, the department shall report the results of the study required pursuant to subdivision a of this section to the public service commission, the governor, the temporary president of the senate, the speaker of the assembly, and the chair of both the senate and assembly standing committees on corporations, authorities and commissions.

d. Within one hundred twenty days of the effective date of this act, the public service commission shall open a proceeding to inquire into the progress of such cable television systems as are being built, or

have been built since 1996, which provide cable television and other services to the customer premises over fiberoptic cable. Such proceeding shall inquire into such factors the commission finds necessary and prudent, including, but not limited to, whether, despite its economic feasibility, the construction or operation of a franchised or certificated cable television system providing service over fiberoptic cable to the customer premises has been unreasonably delayed, or that the extension of service to any persons or areas within the territory of a cable television company providing service over fiberoptic cable to the customer premises has been unreasonably withheld, and whether a remedial order pursuant to the commission's powers under section 224 of the public service law might be required by the public interest.

S 3. Severability. If any provision of this act, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the provision of this act, or in its application to the person or circumstance, directly involved in the controversy in which such judgement shall have been rendered.

S 4. This act shall take effect immediately.