

5637

2013-2014 Regular Sessions

I N A S S E M B L Y

March 4, 2013

Introduced by M. of A. BRENNAN, CAHILL, PEOPLES-STOKES, JACOBS, RIVERA, COLTON, CLARK, WEPRIN -- Multi-Sponsored by -- M. of A. ABBATE, AUBRY, BENEDETTO, BOYLAND, BROOK-KRASNY, COOK, CYMBROWITZ, DINOWITZ, GALEF, GLICK, GOTTFRIED, HEASTIE, HOOPER, LIFTON, MILLMAN, ORTIZ, PAULIN, ROBINSON, ROSENTHAL, WEISENBERG -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state technology law, in relation to establishing community access networks

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

1 Section 1. The state technology law is amended by adding a new section
2 310 to read as follows:

3 S 310. COMMUNITY ACCESS NETWORKS. 1. DEFINITIONS. A. "STATE ENTITY"
4 SHALL MEAN:

5 (I) ANY STATE BOARD, BUREAU, DIVISION, COMMITTEE, COMMISSION, COUNCIL,
6 DEPARTMENT, PUBLIC AUTHORITY, PUBLIC BENEFIT CORPORATION, OFFICE OR
7 OTHER ENTITY PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE
8 STATE OF NEW YORK;

9 (II) ALL CITIES, COUNTIES, MUNICIPALITIES, VILLAGES, TOWNS, AND OTHER
10 LOCAL AGENCIES; BUT SHALL NOT INCLUDE THE JUDICIARY.

11 B. "SPONSORED WIRELESS INFORMATION NETWORK" SHALL MEAN A STATE ENTITY
12 SYSTEM THAT TRANSMITS PACKETIZED VOICE, VIDEO AND/OR DATA BETWEEN USERS
13 WITHOUT UTILIZING WIRES AS ITS SOLE MEANS OF TRANSMISSION.

14 C. "APPROVED WIRELESS INFORMATION NETWORK" SHALL MEAN A SYSTEM:

15 (I) APPROVED BY A STATE ENTITY AFTER A REQUEST FOR PROPOSALS FOR
16 COLLOCATION ON STATE ENTITY PROPERTY; AND

17 (II) THAT TRANSMITS PACKETIZED VOICE, VIDEO AND/OR DATA BETWEEN USERS
18 WITHOUT UTILIZING WIRES AS ITS SOLE MEANS OF TRANSMISSION. INSTALLATION,
19 EQUIPMENT, CONSTRUCTION, OPERATING AND OTHER REASONABLE COSTS TO BE
20 DETERMINED BY THE STATE ENTITY, SHALL NOT BE INCURRED BY THE STATE ENTI-
21 TY, PROVIDED THAT THE APPROVAL FROM THE STATE ENTITY FOR COLLOCATION IS

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

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1 GRANTED AT NO COST. STATE ENTITY APPROVAL OF COLLOCATION MAY ONLY BE
2 WITHHELD WHEN IT CAN BE SHOWN THAT SUCH COLLOCATION WOULD CAUSE UNAVOID-
3 ABLE DAMAGE TO STATE ENTITY PROPERTY OR SECURITY. PREFERENCE FOR COLLO-
4 CATING EQUIPMENT SHALL FIRST BE GIVEN TO ENTITIES LISTED IN SUBPARAGRAPH
5 (I) OF PARAGRAPH A OF THIS SUBDIVISION AND THEN TO ENTITIES LISTED IN
6 SUBPARAGRAPH (II) OF PARAGRAPH A OF THIS SUBDIVISION. OPERATORS OF AN
7 APPROVED INFORMATION NETWORK SHALL NOT EXERCISE ANY EDITORIAL CONTROL
8 OVER ANY PUBLIC, EDUCATIONAL, OR GOVERNMENTAL USE OF CAPACITY PROVIDED
9 PURSUANT TO THIS SECTION, EXCEPT THAT THEY MAY REFUSE TO TRANSMIT ANY
10 CONTENT WHICH CONTAINS OBSCENITY, INDECENCY, OR NUDITY.

11 D. "COMMUNITY ACCESS NETWORK" SHALL MEAN A SYSTEM AS DESCRIBED IN
12 PARAGRAPH B OR C OF THIS SUBDIVISION WHICH IS PROVIDED AT NO COST TO THE
13 END USER AND WHICH HAS AT LEAST PORTIONS THAT ARE OPEN FOR PUBLIC USE.
14 COMMUNITY ACCESS NETWORKS SHALL:

15 (I) EMPLOY NON-PROPRIETARY NETWORKING PROTOCOLS IN ORDER TO ALLOW THE
16 USE OF NON-VENDOR SPECIFIC NETWORKING EQUIPMENT;

17 (II) BE DESIGNED TO ALLOW ACCESS TO PUBLICLY AVAILABLE GOVERNMENT AND
18 OTHER INFORMATION;

19 (III) NOT IMPEDE PUBLIC SAFETY PURPOSES; AND

20 (IV) HAVE SUFFICIENT SECURITY TO ALLOW THE GOVERNMENT TO RESTRICT
21 ACCESS BY ANY INDIVIDUAL OR INDIVIDUALS TEMPORARILY OR PERMANENTLY BASED
22 ON PUBLIC SAFETY NEEDS AND THE LEGITIMATE NEEDS OF LAW ENFORCEMENT.

23 E. "PACKETIZED" SHALL MEAN INFORMATION WHICH IS DIVIDED INTO PARTS
24 BEFORE BEING SENT, TRANSMITTED INDIVIDUALLY, WITHOUT THE NECESSITY OF
25 BEING SENT SEQUENTIALLY, AND THEN RECOMPILED INTO THE ORIGINAL MESSAGE
26 UPON ARRIVAL AT ITS DESTINATION.

27 F. "COLLOCATION" SHALL MEAN THE PROVISION OF SPACE PERMANENTLY OR
28 TEMPORARILY FOR NON-STATE ENTITY EQUIPMENT ON THE STATE ENTITY'S PREM-
29 ISES, EQUIPMENT, OR ON A TEMPORARY BASIS, UNUTILIZED RADIO FREQUENCIES.

30 G. "DARK FIBER" SHALL MEAN UNUTILIZED STRANDS OF FIBER OPTIC CABLE.

31 H. "WHOLESALE NETWORK" SHALL MEAN AN OPERATED, OWNED OR LEASED FIBER
32 OPTIC NETWORK WHICH IS AVAILABLE FOR USE TO ANY NETWORK OPERATOR TO
33 OFFER SERVICES TO END USERS.

34 2. CREATION OF COMMUNITY ACCESS NETWORKS AND NECESSARY REPORTS TO THE
35 STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES. ANY STATE ENTITY WHICH
36 CREATES, BUILDS, MAINTAINS OR UPGRADES A GOVERNMENT SPONSORED OR GOVERN-
37 MENT APPROVED WIRELESS INFORMATION NETWORK SHALL:

38 A. FOLLOW BEST PRACTICES IN CREATING A COMMUNITY ACCESS NETWORK OR
39 NETWORKS AS PART OF THEIR SPONSORED WIRELESS INFORMATION NETWORK; OR
40 ALLOW FOR COLLOCATION OF A COMMUNITY ACCESS NETWORK PROVIDED VIA AN
41 APPROVED WIRELESS INFORMATION NETWORK; AND

42 B. REPORT ON THE STATUS OF COMMUNITY ACCESS NETWORKS TO THE STATE
43 OFFICE FOR TECHNOLOGY NO LATER THAN JULY FIRST OF EACH YEAR.

44 3. PROGRESS REPORT REQUIREMENT TO LEGISLATURE. ANNUALLY ON OR BEFORE
45 SEPTEMBER THIRTIETH THE STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES
46 SHALL PROVIDE A REPORT TO THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
47 PRESIDENT OF THE SENATE DETAILING NETWORKS CREATED PURSUANT TO SUBDIVI-
48 SION TWO OF THIS SECTION.

49 4. MUNICIPAL USE OF STATE'S DARK FIBER FOR COMMUNITY ACCESS NETWORK.
50 IF ANY ENTITY IDENTIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH A OF SUBDIVI-
51 SION ONE OF THIS SECTION SENDS A STATUS REPORT INDICATING THEIR INTENT
52 TO SPONSOR OR APPROVE THE CREATION OF A COMMUNITY ACCESS NETWORK, THEY
53 SHALL BE GIVEN ACCESS TO DARK FIBER LEASED BY ANY ENTITY IDENTIFIED IN
54 SUBPARAGRAPH (I) OF PARAGRAPH A OF SUBDIVISION ONE OF THIS SECTION FREE
55 OF CHARGE FOR THE PURPOSES OF CREATION OF COMMUNITY ACCESS NETWORKS OR
56 FOR GOVERNMENT ENTITY USE.

1 5. STUDY OF THE CREATION OF WHOLESALE NETWORKS. ANY ENTITY LISTED IN
2 SUBPARAGRAPH (II) OF PARAGRAPH A OF SUBDIVISION ONE OF THIS SECTION
3 SHALL STUDY AND REPORT BY OCTOBER THIRTIETH, TWO THOUSAND FOURTEEN ON
4 FEASIBILITY AND COST OF THE CREATION OF WHOLESALE BROADBAND NETWORKS
5 OVER WHICH ANY COMPETITIVE BROADBAND PROVIDERS MAY FURNISH SERVICES TO
6 INDIVIDUALS. ANY SUCH WHOLESALE NETWORK SHALL SHOW NO PREFERENCE TO ANY
7 PROVIDER, INCLUDING A MUNICIPAL PROVIDER. SUCH REPORT SHALL BE SENT TO
8 THE STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES, THE SPEAKER OF THE
9 ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE.

10 6. STUDY OF SOCIAL NETWORKING APPLICATIONS AND COMMUNITY-CENTERED
11 SERVICES. THE STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES SHALL
12 STUDY AND REPORT ON JANUARY TWELFTH, TWO THOUSAND FOURTEEN ON POTENTIAL
13 SOCIAL NETWORKING USES, APPLICATIONS AND COMMUNITY CENTERED SERVICES
14 WHICH COULD BE ENABLED AND EXTENDED BY THE CREATION OF FREE INTERNET
15 ACCESS. SUCH REPORT SHALL BE SENT TO THE SPEAKER OF THE ASSEMBLY AND THE
16 TEMPORARY PRESIDENT OF THE SENATE.

17 S 2. This act shall take effect immediately.