

6003

2013-2014 Regular Sessions

I N A S S E M B L Y

March 13, 2013

Introduced by M. of A. BRENNAN, ABINANTI, COLTON, LUPARDO, SCARBOROUGH, CAHILL, ENGLEBRIGHT, MAISEL, MARKEY, RUSSELL, PAULIN, CASTRO, MILLER, THIELE, CLARK, RAMOS, AUBRY, ROBERTS, ROSENTHAL -- Multi-Sponsored by -- M. of A. BRONSON, CAMARA, CERETTO, COOK, CYMBROWITZ, DenDEKKER, GABRYSZAK, GALEF, McDONOUGH, McKEVITT, MILLMAN, MONTESANO, PEOPLES-STOKES, PRETLOW, RA, RAIA, SALADINO, SIMOTAS, SWEENEY, TITONE -- 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:

1 Section 1. Legislative findings. The legislature hereby declares that
2 the public interest is furthered by the broadest possible deployment of
3 consumer-available high-speed internet service at reasonable prices, to
4 the largest number of New York households and businesses as is practica-
5 ble. Due to the ubiquity of such service provided by cable television
6 companies, and such companies' provision of high-speed internet to the
7 home and workplace, and the greater speeds demonstrated around the rest
8 of the world by systems providing high-speed internet by fiberoptic
9 cable to the premises, the legislature finds that it has a compelling
10 interest in closer oversight of the cable television systems, whether
11 completed or under construction, that provide such services and allow
12 the citizens of the state of New York to access government or other
13 services from home or otherwise remotely.
14 S 2. Study. a. The department of public service shall, within thirty
15 days of the effective date of this act, undertake a study, pursuant to
16 its duty under subdivision 11 of section 215 of the public service law,
17 of the current status of cable television systems operating and provid-

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

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1 ing services to the customer premises over fiberoptic cables. This study
2 shall include:

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

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

9 (iii) a demographic analysis of the racial, ethnic and income charac-
10 teristics of the residents of each municipality by franchise such compa-
11 nies have or operate where service is provided to the customer premises
12 over fiberoptic cable based on the results of the most recent decennial
13 census conducted by the census bureau of the United States;

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

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

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

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

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

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

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

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

53 c. Within ninety days of the effective date of this act, the depart-
54 ment shall report the results of the study required pursuant to subdivi-
55 sion a of this section to the public service commission, the governor,
56 the temporary president of the senate, the speaker of the assembly, and

1 the chair of both the senate and assembly standing committees on corpo-
2 rations, authorities and commissions.

3 d. Within one hundred twenty days of the effective date of this act,
4 the public service commission shall open a proceeding to inquire into
5 the progress of such cable television systems as are being built, or
6 have been built since 1996, which provide cable television and other
7 services to the customer premises over fiberoptic cable. Such proceeding
8 shall inquire into such factors the commission finds necessary and
9 prudent, including, but not limited to, whether, despite its economic
10 feasibility, the construction or operation of a franchised or certifi-
11 cated cable television system providing service over fiberoptic cable
12 to the customer premises has been unreasonably delayed, or that the
13 extension of service to any persons or areas within the territory of a
14 cable television company providing service over fiberoptic cable to the
15 customer premises has been unreasonably withheld, and whether a remedial
16 order pursuant to the commission's powers under section 224 of the
17 public service law might be required by the public interest.

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

25 S 4. This act shall take effect immediately.