

ASSEMBLY, No. 804

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

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District 19 (Middlesex)

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District 1 (Cape May, Atlantic and Cumberland)

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District 12 (Mercer and Monmouth)

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SYNOPSIS

Authorizes a Statewide franchise for certain providers of cable television service.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/12/2006)

A804 CARABALLO, VAS

2

1 AN ACT concerning the regulation of cable television service and
2 amending and supplementing P.L.1972, c.186 (C.48:5A-1 et
3 seq.), amending P.L.1985, c.356, P.L.1991, c.412 and P.L.2003,
4 c.38, and repealing certain sections of the statutory law.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. Section 2 of P.L.1972, c.186 (C.48:5A-2) is amended to read
10 as follows:

11 2. The Legislature finds, determines and declares:

12 a. That, after careful investigation, it appears that the rates,
13 services and operations of cable television companies in this State
14 are affected with a public interest;

15 b. That it should be, and is hereby declared, the policy of this
16 State to provide fair regulation of cable television companies in the
17 interest of the public;

18 c. That the objects of such regulation are (1) to promote
19 adequate, economical and efficient cable television service to the
20 citizens and residents of this State, (2) to encourage the optimum
21 development of the educational and community-service potentials
22 of the cable television medium, (3) to provide just and reasonable
23 rates and charges for cable television system services without unjust
24 discrimination, undue preferences or advantages, or unfair or
25 destructive competitive practices, (4) to promote and encourage
26 harmony between cable television companies and their subscribers
27 and customers, (5) to protect the interests of the several
28 municipalities of this State in relation to the issuance of municipal
29 consents for the operation of cable television companies within
30 their several jurisdictions, and to secure a desirable degree of
31 uniformity in the practices and operations of cable television
32 companies in those several jurisdictions; and (6) to cooperate with
33 other states and with the Federal Government in promoting and
34 coordinating efforts to regulate cable television companies
35 effectively in the public interest;

36 d. That to secure such regulation and promote the objectives
37 thereof, authority to regulate cable television companies generally,
38 and their rates, services and operations, in the manner and in
39 accordance with the policies set forth in **[this act] P.L.1972, c.186**
40 **(C.48:5A-1 et seq.)** (the "act"), shall be vested in the **[Department]**
41 **Board of Public Utilities[.]** ;

42 e. That the Federal Communications Commission (the "FCC")
43 reported in its 2005 assessment of video programming competition
44 that increased competition in the multichannel video programming
45 distributor ("MVPD") market has led to improvements in cable

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 television services, including more channels of video programming
2 and increased service options for consumers, but generally not
3 lower prices;

4 f. That, as a result of ongoing technological innovations, non-
5 traditional providers of MVPD services such as local telephone
6 common carriers are offering or preparing to offer MVPD services
7 over existing telephone lines or over newly-installed high-speed
8 fiber lines to customers in their local telephone service areas, and
9 such developments have the potential for stimulating additional
10 competition in the MVPD market that should lead to further
11 improvements for MVPD customers;

12 g. That, in order to afford an equal opportunity for non-
13 traditional MVPD providers such as local telephone common
14 carriers to compete with existing providers, and to ensure that
15 customers receive the benefits of a more competitive MVPD
16 market, it is in the public interest to encourage common carriers to
17 enter the MVPD market by adapting the existing regulatory
18 framework to the changed circumstances brought about by recent
19 technological developments while allowing the State to retain its
20 necessary and appropriate regulatory oversight with regard to
21 consumer protection and customer service elements; and

22 h. That nothing in this act shall be seen to limit or otherwise
23 reduce the protection afforded to cable television customers, and it
24 is in the public interest to include additional provisions in this act to
25 ensure that customers continue to be provided a high level of
26 consumer protection and customer service in a more competitive
27 MVPD market.

28 (cf: P.L.1972, c.186, s.2)

29

30 2. Section 3 of P.L.1972, c.186 (C.48:5A-3) is amended to read
31 as follows:

32 3. As used in this act, except as the context may otherwise
33 clearly require or indicate:

34 a. "Board" means the Board of Public Utilities **[of this State]**.

35 b. "Office" means the Office of Cable Television established by
36 **[this act]** the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1
37 et seq.).

38 c. "Director" means the Director of the Office of Cable
39 Television.

40 d. "Cable television system" or "CATV system" means **[any**
41 **facility within this State which is operated or intended to be**
42 **operated to perform the service of receiving and amplifying the**
43 **signals broadcast by one or more television stations and**
44 **redistributing such signals by wire, cable or other device or means**
45 **for accomplishing such redistribution, to members of the public**
46 **who subscribe to such service, or distributing through its facility**
47 **any television signals, whether broadcast or not; or any part of such**

1 facility] a facility, consisting of a set of closed transmission paths
2 and associated signal generation, reception, and control equipment,
3 that is designed to provide cable television service which includes
4 video programming and which is provided to multiple subscribers
5 within a community, but such term does not include: (1) a facility
6 that serves only to retransmit the television signals of one or more
7 television broadcast stations; (2) a facility that serves subscribers
8 without using any public right-of-way; (3) a facility of a common
9 carrier which is subject, in whole or in part, to regulation by the
10 board pursuant to Title 48 of the Revised Statutes, except that such
11 facility shall be considered a CATV system to the extent such
12 facility is used in the transmission of video programming directly to
13 subscribers; (4) an open video system that has been certified by the
14 Federal Communications Commission as being in compliance with
15 the provisions of Part 76, "Multichannel Video and Cable
16 Television Service," of Title 47 of the Code of Federal Regulations;
17 (5) any facilities of any electric public utility used solely for
18 operating its electric utility systems; or (6) a facility of an electric
19 public utility which is subject, in whole or in part, to regulation by
20 the board pursuant to Title 48 of the Revised Statutes, except that
21 such facility shall be considered a CATV system to the extent that
22 such facility is used in the transmission of video programming
23 directly to the subscribers. The term "facility" as used in this
24 subsection includes all real property, antennae, poles, wires, cables,
25 conduits, amplifiers, instruments, appliances, fixtures and other
26 personal property used by a CATV company in providing service to
27 its subscribers and customers.

28 e. "Cable television reception service" means the simultaneous
29 delivery through a CATV system of the signals of television
30 broadcast stations to members of the public subscribing to such
31 service, which service may include additional nonbroadcast signals
32 delivered as a part of the service with no additional charge.

33 f. "Cable communications system" or "cable communications
34 service" means any communications service other than cable
35 television reception service delivered through the facilities of a
36 CATV system and for which charges in addition to or other than
37 those made for cable television reception service are made or
38 proposed to be made.

39 g. "Cable television company" or "CATV company" means any
40 person owning, controlling, operating or managing a cable
41 television system, and the term "person" as used herein shall be
42 construed, without limiting the generality thereof, to include
43 specifically any agency or instrumentality of this State or of any of
44 its political subdivisions, including telecommunications service
45 providers; but this definition shall not include a telephone,
46 telegraph or electric utility company regulated by the Board of
47 Public Utilities in a case where it merely leases or rents or
48 otherwise provides to a CATV company wires, conduits, cables or

- 1 pole space used in the redistribution of television signals to or
2 toward subscribers or customers of such CATV company.
- 3 h. "Highway" includes every street, road, alley, thoroughfare,
4 way or place of any kind used by the public or open to the use of
5 the public.
- 6 i. "Certificate" means a certificate of approval issued [, or
7 which may be issued,] by the board pursuant to [this act]
8 P.L.1972, c.186 (C.48:5A-1 et seq.).
- 9 j. "Cable television service" includes the definitions of cable
10 television reception service and cable communications service
11 herein, as well as the provision of any other impulse or signal by a
12 cable television company or other service lawfully provided,
13 utilizing the facilities of the system.
- 14 k. "Basic cable service" means any service tier which includes
15 the retransmission of local television broadcast signals.
- 16 l. "Hearing impaired individual" means an individual who,
17 because of injury to, disease of, or defect in the inner, middle or
18 outer ear, or any combination thereof, has suffered a loss of hearing
19 acuity such that the individual cannot receive linguistic information
20 without amplification, dubbing or captions.
- 21 m. "In series connection" means a connection where the coaxial
22 service wire entering the residence of a subscriber connects first to
23 a television receiver or monitor, with the television receiver or
24 monitor being connected by coaxial wire to a video cassette
25 recorder or other auxiliary equipment or where the coaxial service
26 wire connects first to a video cassette recorder or auxiliary
27 equipment, with the equipment being connected to a television
28 receiver or monitor and where no external splitting device is used.
- 29 n. "Municipality" means one municipality acting singularly or
30 two or more municipalities acting jointly in the granting of
31 municipal consent for the provision of cable television service in
32 accordance with the provisions of the "Cable Television Act,"
33 P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented.
- 34 o. "Open video system" means a facility consisting of a set of
35 transmission paths and associated signal generation, reception, and
36 control equipment that is designed to provide cable television
37 service to multiple subscribers within a municipality and which has
38 been certified by the Federal Communications Commission as being
39 in compliance with Part 76 "Multichannel Video and Cable
40 Television Service" of Title 47 of the Code of Federal Regulations.
- 41 p. "Private aggregator" means a duly-organized business or non-
42 profit organization authorized to do business in this State that enters
43 into a contract with two or more municipalities for the purpose of
44 facilitating the joint action of those municipalities in granting
45 municipal consent for the provision of cable television service to
46 those municipalities.
- 47 q. "Franchise" means an initial authorization, or renewal thereof,

1 issued by a franchising authority in accordance with the provisions
2 of P.L.1972, c.186 (C.48:5A-1 et seq.), whether such authorization
3 is designated as a franchise, permit, license, resolution, contract,
4 certificate, agreement or otherwise, which authorizes the
5 construction or operation of a cable television system.

6 r. "Statewide franchise" means a franchise issued pursuant to
7 P.L.1972, c.186 (C.48:5A-1 et seq.) which authorizes a cable
8 television company to construct or operate a cable television system
9 in any location within the State of New Jersey.

10 s. "Local franchising authority" or "franchising authority" means
11 a governmental entity empowered by federal, State, or local law to
12 grant a franchise.

13 t. "Telecommunications service provider" or
14 "telecommunications provider" means any owner of facilities and
15 equipment located in public rights-of-way used to provide
16 telecommunications services, except that such term does not include
17 aggregators of telecommunications services.

18 u. "Telecommunications service" means the offering of
19 telecommunications for a fee directly to the public, or to such
20 classes of users as to be effectively available directly to the public,
21 regardless of the facilities used.

22 v. "Video reception service" means the simultaneous delivery by
23 any means, equipment or facilities, of the signals of television
24 broadcast stations to members of the public subscribing to such
25 service for a fee or other consideration, which service may include
26 additional non-broadcast signals delivered as part of the service.

27 (cf: P.L.2003, c.38, s.3)

28

29 3. Section 4 of P.L.1972, c.186 (C.48:5A-4) is amended to read
30 as follows:

31 4. There is hereby established in the **【Department】** Board of
32 Public Utilities an Office of Cable Television; but nothing in **【this**
33 **act】** P.L.1972, c.186 (C.48:5A-1 et seq.) shall be construed as
34 declaring or defining cable television to be a public utility or
35 subjecting it to the application of any of the provisions of Title 48
36 of the Revised Statutes, except as otherwise specifically provided
37 in **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.).

38 (cf: P.L.1972, c.186, s.4)

39

40 4. Section 5 of P.L.1972, c.186 (C.48:5A-5) is amended to read
41 as follows:

42 5. The office shall be headed and administered by a director,
43 who shall be a person qualified by training and experience to
44 perform the duties of **【his】** the office, and shall receive such salary
45 as shall be **【provided by law】** determined by the President of the
46 Board. The director shall be appointed by the **【board】** President of
47 the Board, and shall serve at the pleasure of the **【board】** President

1 of the Board.

2 (cf: P.L.1972, c.186, s.5)

3

4 5. Section 6 of P.L.1972, c.186 (C.48:5A-6) is amended to read
5 as follows:

6 6. The director under the supervision of the **【board】** the
7 President of the Board shall organize the work of the office and
8 establish therein such administrative subdivisions as **【he】** may
9 **【deem】** be deemed necessary, proper and expedient. **【He】** The
10 director may formulate **【and adopt】** rules and regulations for the
11 board's consideration and prescribe duties for the efficient conduct
12 of the business, work and general administration of the office.
13 **【He】** The director may delegate to subordinate officers or
14 employees in the office such **【of his】** powers as **【he】** may **【deem】**
15 be deemed desirable, to be exercised under **【his】** the supervision
16 and direction of the director.

17 (cf: P.L.1972, c.186, s.6)

18

19 6. Section 7 of P.L.1972, c.186 (C.48:5A-7) is amended to read
20 as follows:

21 7. Subject to the provisions of Title **【11】** 11A of the **【Revised】**
22 New Jersey Statutes, and within the limits of funds appropriated or
23 otherwise made available, the director with the approval of the
24 **【board】** President of the Board may appoint such officers and
25 employees of the office as **【he】** may **【deem】** be deemed necessary
26 for the performance of its duties, and may fix and determine their
27 qualifications, duties and compensation, and may retain or employ
28 engineers and private consultants on a contract basis or otherwise
29 for rendering professional or technical service or assistance.

30 (cf: P.L.1972, c.186, s.7)

31

32 7. Section 9 of P.L.1972, c.186 (C.48:5A-9) is amended to read
33 as follows:

34 9. The board, which is empowered pursuant to P.L.1972, c.186
35 (C.48:5A-1 et seq.) to be the local franchising authority in this
36 State, and the director under the supervision of the board, shall have
37 full right, power, authority and jurisdiction to:

38 a. Receive or initiate complaints of the alleged violation of any
39 of the provisions of **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.)
40 or of any of the rules and regulations made pursuant to **【this act】**
41 P.L.1972, c.186 (C.48:5A-1 et seq.) or of the terms and conditions
42 of any municipal consent or franchise granted pursuant to **【this act】**
43 P.L.1972, c.186 (C.48:5A-1 et seq.); and for this purpose and all
44 other purposes necessary to enable **【him】** the director to administer
45 the duties of the office as prescribed by law may hold hearings and
46 shall have power to subpoena witnesses and compel their attendance,

1 administer oaths and require the production for examination of any
2 books or papers relating to any matter under investigation at any
3 such hearing;

4 b. Supervise and regulate every CATV company operating
5 within this State and its property, property rights, equipment,
6 facilities, contracts, certificates and franchises so far as may be
7 necessary to carry out the purposes of **[this act]** P.L.1972, c.186
8 (C.48:5A-1 et seq.), and to do all things, whether herein specifically
9 designated or in addition thereto, which are necessary or convenient
10 in the exercise of such power and jurisdiction;

11 c. Institute all proceedings and investigations, hear all
12 complaints, issue all process and orders, and render all decisions
13 necessary to enforce the provisions of **[this act]** P.L.1972, c.186
14 (C.48:5A-1 et seq.), of the rules and regulations adopted thereunder,
15 or of any municipal consents issued pursuant to **[this act]**
16 P.L.1972, c.186 (C.48:5A-1 et seq.) ;

17 d. Institute, or intervene as a party in, any action in any court of
18 competent jurisdiction seeking mandamus, injunctive or other relief
19 to compel compliance with any provision of **[this act]** P.L.1972,
20 c.186 (C.48:5A-1 et seq.), of any rule, regulation or order adopted
21 thereunder or of any municipal consent or franchise issued
22 thereunder, or to restrain or otherwise prevent or prohibit any illegal
23 or unauthorized conduct in connection therewith.

24 (cf: P.L.1972, c.186, s.9)

25

26 8. Section 10 of P.L.1972, c.186 (C.48:5A-10) is amended to
27 read as follows:

28 10. The director with the approval of the board shall establish,
29 for the purpose of assuring safe, adequate and proper cable
30 television service, **[after hearing in accordance with the**
31 **Administrative Procedure Act (P.L.1968, c. 410; C. 52:14B-1 et**
32 **seq.),]** rules and regulations governing:

33 a. Technical standards of performance for CATV systems and
34 the equipment and facilities thereof, including standards of
35 maintenance and safety, not inconsistent with applicable Federal
36 regulations**[.]**;

37 b. The prohibition and prevention of the imposition of any
38 unjust or unreasonable, unjustly discriminatory or unduly
39 preferential individual or joint rate, charge or schedule for any
40 service supplied or rendered by a CATV company within this State,
41 or the adoption or imposition of any unjust or unreasonable
42 classification in the making or as the basis of any individual or joint
43 rate, charge or schedule for any service rendered by a CATV
44 company within this State**[.]**;

45 c. Requirements for the reasonably prompt and complete
46 exercise of the rights conferred by any certificate, subject to
47 revocation thereof or other penalty provided under **[this act]**

1 P.L.1972, c.186 (C.48:5A-1 et seq.);

2 d. Procedures and forms for the application by a CATV
3 company for municipal consents or for a franchise required under
4 **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.);

5 e. Procedures and forms for review by the director of municipal
6 consents issued pursuant to the provisions of **【this act】** P.L.1972,
7 c.186 (C.48:5A-1 et seq.);

8 f. Procedures and forms for the application by CATV companies
9 to municipalities for amendment of rates or other terms and
10 conditions of municipal consents or franchises and, for the review
11 by the director of the terms of such amendments, and for the
12 resolution by the director of disputes between municipalities and
13 CATV companies over such applications;

14 g. Procedures and forms for submission to and resolution by the
15 director of complaints or disputes by or between CATV companies,
16 municipalities or citizens regarding proper compliance with the
17 implementation of the provisions of **【this act】** P.L.1972, c.186
18 (C.48:5A-1 et seq.) or the rules and regulations made or municipal
19 consents or franchises issued pursuant to **【this act】** P.L.1972, c.186
20 (C.48:5A-1 et seq.); provided, however, that, notwithstanding the
21 foregoing provisions of this section or any of the provisions of **【this**
22 **act】** P.L.1972, c.186 (C.48:5A-1 et seq.), it is the intent of **【this**
23 **act】** P.L.1972, c.186 (C.48:5A-1 et seq.) that all the provisions,
24 regulations and requirements imposed by or pursuant to **【this act】**
25 P.L.1972, c.186 (C.48:5A-1 et seq.) shall be operative only to the
26 extent that the same are not in conflict with the laws of the United
27 States or with any rules, regulations or orders adopted, issued or
28 promulgated pursuant thereto by any Federal regulatory body
29 having jurisdiction. No requirement, regulation, term, condition,
30 limitation or provision imposed by or pursuant to **【this act】**
31 P.L.1972, c.186 (C.48:5A-1 et seq.) which is contrary to or
32 inconsistent with any such Federal law, regulation or order now or
33 hereafter adopted shall be enforced by the director or shall be
34 authority for the granting, denial, amendment or limitation of any
35 municipal consent or certificate of approval which may be applied
36 for or issued under the terms of **【this act】** P.L.1972, c.186
37 (C.48:5A-1 et seq.).

38 The board through the office is hereby empowered and directed
39 to cooperate with any Federal regulatory agency in the enforcement
40 within this State of all Federal laws, rules, regulations and orders
41 relating to CATV systems and CATV companies, and therein to act
42 as agent for such Federal regulatory body to the extent authorized
43 by or pursuant to Federal law, and to enter into agreements for said
44 purpose.

45 (cf: P.L.1972, c.186, s.10)

46

47 9. Section 11 of P.L.1972, c.186 (C.48:5A-11) is amended to

1 read as follows:

2 11. a. Except as provided in subsection g. of section 28 of **[this**
3 **act]** P.L.1972, c.186 (C.48:5A-28) with respect to rates to
4 subscribers to cable television reception service, the board through
5 the office shall prescribe just and reasonable rates, charges and
6 classifications for the services rendered by a CATV company, and
7 the tariffs therefor shall be filed and published in such manner and
8 on such notice as the director with the approval of the board may
9 prescribe, and shall be subject to change on such notice and in such
10 manner as the director with the approval of the board may
11 prescribe.

12 b. The board shall from time to time cause the established rates
13 and rate schedules of each CATV company for cable TV reception
14 service to be reviewed, and if upon such review it shall appear to
15 the board that such rates, or any of them, are or may be excessive,
16 unreasonable, unjustly discriminatory or unduly preferential, the
17 board shall require the CATV company to establish to its
18 satisfaction that such rates are just, reasonable and not excessive or
19 unjustly preferential or discriminatory, and for such purpose shall
20 order the director to hold a hearing thereon. After a hearing upon
21 notice and full opportunity to be heard afforded to the CATV
22 company, the director may recommend amendment of the schedule
23 of cable television subscription rates charged by such company, and
24 such amended schedule if approved by the board shall supersede
25 and replace the schedule so amended.

26 c. Any hearing held pursuant to this section shall be open to the
27 public, and notice thereof shall be published by the **[director]** cable
28 television company at least 10 days prior thereto in a newspaper or
29 newspapers of general circulation **[in each municipality comprised,**
30 **in whole or part,]** in the certificated area wherein the rate schedule
31 which is the subject of the hearing applies. **[Every municipality**
32 **may intervene in any hearing held by the director pursuant to this**
33 **section affecting the municipality or the public within the**
34 **municipality.]**

35 d. No CATV company shall derive from the operations of cable
36 television reception service or cable communications systems any
37 revenues other than the fees, charges, rates and tariffs provided for
38 in subsection a. of this section and in subsection g. of section 28 of
39 **[this act]** P.L.1972, c.186 (C.48:5A-28).

40 e. Whenever pursuant to the provisions of **[this act]** P.L.1972,
41 c.186 (C.48:5A-1 et seq.) the board or the director is required to
42 determine whether any of the rates, charges, fees, tariffs and
43 classifications of a CATV company subject to this section or to
44 subsection g. of section 28 of **[this act]** P.L.1972, c.186 (C.48:5A-
45 28) are unjust, unreasonable, discriminatory or unduly preferential,
46 there shall be taken into consideration any fees which are charged
47 for the use of a CATV system, or part thereof, as an advertising

1 medium, or for services ancillary to such use, and from which the
2 CATV system derives revenue, directly or indirectly, and the effect
3 thereof upon, the company's requirements for revenue from such
4 fees, rates, charges, tariffs and classifications subject to the
5 provisions of this section.
6 (cf: P.L.1972, c.186, s.11)
7

8 10. Section 2 of P.L.1985, c.356 (C.48:5A-11.2) is amended to
9 read as follows:

10 2. Notwithstanding the provisions of P.L.1972, c.186 (C. 48:5A-
11 1 et seq.) or of any other State law to the contrary, any CATV
12 company providing service may establish rates or schedules which
13 provide for a reduction or discount in rates for cable television
14 reception service for senior citizens ~~and~~, disabled citizens, or
15 other economically disadvantaged groups who meet the eligibility
16 requirements of either the "Pharmaceutical Assistance to the Aged
17 and Disabled" program pursuant to P.L.1975, c.94 (C.30:4D-20 et
18 seq.) ,as amended and supplemented; or are receiving or are eligible
19 to receive benefits under the Supplemental Security Income
20 program, P.L.1973, c.256 (C.44:7-85 et seq.); or are receiving
21 disability insurance benefits under Title II of the federal Social
22 Security Act, 42 U.S.C. s.401 et seq. and meet the income and
23 residency requirements of the "Pharmaceutical Assistance to the
24 Aged and Disabled Program," established pursuant to P.L.1975,
25 c.194 (C.30:4D-20 et seq.).

26 The Board of Public Utilities through the Office of Cable
27 Television shall adopt regulations for the prompt, fair and efficient
28 establishment and maintenance of these reduced or discounted rates
29 and schedules. Subscription to the "Tenants' Lifeline Assistance
30 Program," established pursuant to P.L.1981, c.210 (C.48:2-29.30 et
31 seq.), or to the "Lifeline Credit Program," established pursuant to
32 P.L.1979, c.197 (C.48:2-29.15 et seq.), shall not be a basis for
33 exclusion from any reduction or discount provided under this
34 section, nor shall subscription to any cable television service from
35 such provider be a basis for exclusion from the Tenants' Lifeline
36 Assistance Program or the Lifeline Credit Program.

37 "Senior citizen" means any person 62 years of age or older who
38 subscribes for CATV service and who does not share the
39 subscription with more than one other person in the same dwelling
40 unit who is less than 62 years of age.
41 (cf: P.L.1988, c.81, s.2)
42

43 11. Section 3 of P.L.1985, c.356 (C.48:5A-11.3) is amended to
44 read as follows:

45 3. ~~【A municipality shall not require】~~A cable television company
46 shall not be required, as part of any franchising agreement, or
47 renewal thereof, or as part of any negotiations leading up to a

1 franchising agreement, or renewal thereof, **[that a CATV company]**
2 to provide the reduction or discount in rates which is permitted
3 under section 2 of **[this act]** P.L.1985, c.356 (C.48:5A-11.2).
4 (cf: P.L.1985, c.356, s.3)

5
6 12. Section 15 of P.L.1972, c.186 (C.48:5A-15) is amended to
7 read as follows:

8 15. No person shall hereafter begin the construction~~[,]~~ or
9 extension of a CATV system, or begin or continue the operation of
10 a CATV system, or acquire ownership or control thereof, without
11 first obtaining from the board a certificate of approval or franchise
12 issued in accordance with the provisions and procedures specified
13 in **[this act]** P.L.1972, c.186 (C.48:5A-1 et seq.); except that the
14 director may, by order, rule or regulation, exempt a CATV company
15 from the above **[certificate]** requirement in a case **[where its]** in
16 which the company's temporary acts or operations do not require
17 the issuance of a certificate or franchise in the public interest. The
18 issuance of a certificate by the board to a cable service company
19 shall be deemed to confer a franchise upon the cable television
20 company.
21 (cf: P.L.1972, c.186, s.15)

22
23 13. Section 16 of P.L.1972, c.186 (C.48:5A-16) is amended to
24 read as follows:

25 16. a. The application for **[such]** a **[certificate of approval]**
26 Statewide franchise from the board shall be in writing, **[shall have]**
27 attached thereto the municipal consents required under section 22 of
28 this act, except that a CATV company which is authorized under
29 section 25 of this act to continue operations after the expiration of a
30 municipal consent and pending municipal action upon application
31 made for renewal or reissuance of such consent may in lieu of such
32 municipal consent attach to its application a statement regarding its
33 authorization to continue operations under the provisions of section
34 25;] and shall contain such **[other]** information as the director may
35 from time to time prescribe by duly promulgated rule, regulation or
36 order. Each such application shall be accompanied by a filing fee
37 of **[\$100.00]** \$1,000.

38 b. Upon receipt of such application, the board shall review the
39 same and shall, within 30 days of the receipt thereof, either issue
40 the **[certificate]** Statewide franchise applied for or order the
41 director to schedule a hearing upon the application. No application
42 shall be denied without a hearing thereon. In determining whether a
43 **[certificate]** Statewide franchise should **[issue]** be issued, the
44 board shall consider, in addition to the requirements of section 17 of
45 P.L.1972, c.186 (C.48:5A-17), among other things, public
46 convenience and necessity, the suitability and character of the
47 applicant, the financial responsibility of the applicant, and the

1 ability of the applicant to perform efficiently the proposed service
2 and other service which may be required by public convenience and
3 necessity during the term of the **[municipal consent]** Statewide
4 franchise. Upon receipt of a complaint from any person claiming to
5 be aggrieved by the issuance of a **[certificate]** Statewide franchise
6 applied for, the board shall not issue such **[certificate]** Statewide
7 franchise without a hearing thereon, if it deems that there is a
8 reasonable ground for such complaint.

9 c. **[If in its initial review of the application it shall appear to the**
10 **board that any of the rates in the schedule of rates provided therein**
11 **pursuant to subsection g. of section 28 of this act are or may be**
12 **excessive, unreasonable, unjustly discriminatory or unduly**
13 **preferential, it shall not issue a certificate without a hearing on such**
14 **application, to be held by the director at the order of the board at**
15 **which hearing the applicant CATV company may be required to**
16 **establish to his satisfaction that such rates are just, reasonable and**
17 **not excessive or unjustly preferential or discriminatory. After a**
18 **hearing at which such justification of rates is required, upon notice**
19 **and full opportunity to be heard afforded to the applicant CATV**
20 **company, the director may, recommended that the schedule of rates**
21 **aforesaid be amended and such amended schedule if approved by**
22 **the board shall supersede and replace the schedule so amended.]**
23 (Deleted by amendment, P.L. , c.) (pending before the
24 Legislature as this bill)

25 d. **[A hearing held pursuant to this section shall be held not later**
26 **than the sixtieth day following the date of receipt of the**
27 **application; it may be adjourned from time to time, but not to a**
28 **date later than the sixtieth day following the date on which it**
29 **commenced, except with the consent of the applicant. If such**
30 **hearing is held, the director shall within 60 days after the**
31 **conclusion thereof, transmit his findings of fact and**
32 **recommendations to the board, which shall either issue or deny the**
33 **certificate for which application was made, or may issue a**
34 **certificate with such limitations and conditions as the public interest**
35 **may require. The board shall transmit notice of its decision to the**
36 **applicant.]** (Deleted by amendment, P.L. , c.) (pending before
37 the Legislature as this bill)
38 (cf: P.L.1972, c.186, s.16)

39
40 14. Section 17 of P.L.1972, c.186 (C.48:5A-17) is amended to
41 read as follows:

42 17. a. The board shall issue a **[certificate of approval]**
43 Statewide franchise when, after reviewing the application, and after
44 hearing if one is held, the applicant establishes to **[its]** the board's
45 satisfaction that the applicant **[has all the municipal consents**
46 **necessary to support the application, that such consents and the**
47 **issuance thereof are in conformity with the requirements of this act,**

1 and that the applicant] has complied or is ready, willing and able to
2 comply with all applicable rules and regulations imposed by or
3 pursuant to State or federal law as preconditions for engaging in
4 [his] the applicant's proposed CATV operations[; provided, that in
5 the case of any application which has omitted the attachment of
6 municipal consent in the circumstance provided for in subsection a.
7 of section 16 of this act, the board shall condition the issuance of
8 the certificate upon the applicant's reasonably prompt attainment of
9 the omitted municipal consent or reasonably prompt initiation of
10 proceedings under subsection d. of this section].

11 b. [In considering any such application, the board shall take into
12 consideration the probable effects upon both the area for which
13 certification is sought and neighboring areas not covered in the
14 municipal consents; and if it finds that the probable effects, for
15 technical and financial reasons, would be to impede the
16 development of adequate cable television service, or create an
17 unreasonable duplication of services likely to be detrimental to the
18 development of adequate cable television service in any area either
19 within or without the area for which certification is sought, it may
20 deny the certificate or it may amend the certificate in issuing it so as
21 to:

22 (1) Direct that areas covered in the application be excluded from
23 the area certified; or

24 (2) Direct that areas not covered in the application be included
25 in the area certified.] (Deleted by amendment, P.L. , c.)
26 (pending before the Legislature as this bill)

27 c. [No such certificate amended pursuant to subsection b. of this
28 section shall be issued except after hearing of which each affected
29 municipality shall be given notice and afforded opportunity to be
30 heard. No such amended certificate shall be issued which would
31 impair the terms of any existing certificate or of any municipal
32 consent upon which such existing certificate is based, except with
33 the consent of the holder of such existing certificate and of any
34 municipality having issued such municipal consent.] (Deleted by
35 amendment, P.L. , c.) (pending before the Legislature as this bill)

36 d. [If a municipality shall arbitrarily refuse to grant the
37 municipal consent required under the terms of this act prerequisite
38 to issuance of a certificate, or to act upon an application for such
39 municipal consent within 90 days after such application is filed,
40 then the applicant CATV company may avoid the necessity of first
41 obtaining such municipal consent by showing to the satisfaction of
42 the board that the municipal consent is being arbitrarily withheld.
43 But any CATV company certificated without municipal consent
44 shall nevertheless pay the franchise tax to the municipality imposed
45 under section 30 of this act. An application for certificate filed
46 pursuant to this subsection shall be accompanied by a filing fee of
47 \$200.00.] (Deleted by amendment, P.L. , c.) (pending before

1 the Legislature as this bill)

2 e. **【If any municipality or county shall refuse to any CATV**
3 **company, whether the holder of a municipal consent from that**
4 **municipality or otherwise, any zoning variance or other municipal**
5 **act or authorization, or any county act or authorization, necessary to**
6 **permit such company to locate any facility of such company within**
7 **such municipality or county, or to install transmission facilities**
8 **through such municipality or county for the purpose of serving**
9 **subscribers or customers in any area for which such company has**
10 **been issued a certificate by the board, the company may apply to**
11 **the board for an order setting aside such municipal or county refusal**
12 **and permitting such location of facility or installation of**
13 **transmission facilities as requested by the company. An application**
14 **pursuant to this subsection shall be accompanied by a filing fee of**
15 **\$200.00. The board, after hearing upon notice and full opportunity**
16 **for both the applicant and the municipality or county to be heard,**
17 **shall issue such order when it appears to the board's satisfaction that**
18 **such permission is necessary to enable the company to provide safe,**
19 **adequate and proper CATV service to its customers or subscribers**
20 **in the manner required by this act, and that such location or**
21 **installation will not adversely affect the public health, safety and**
22 **welfare.】** (Deleted by amendment, P.L. , c.) (pending before
23 the Legislature as this bill)

24 f. **【The director shall issue a certificate to any CATV company**
25 **lawfully engaged in the construction, extension or operation of a**
26 **CATV system on the effective date of this act, for the construction,**
27 **extension or operation then being conducted, without further**
28 **review, if application for such certificate is filed with the board**
29 **within 90 days after such effective date. The construction,**
30 **extension or operation of such a CATV system may be lawfully**
31 **continued pending the filing of such an application unless the**
32 **director orders otherwise. An application for such certificate which**
33 **is untimely shall be determined in accordance with the procedures**
34 **prescribed in subsections a. through d. of this section. A certificate**
35 **issued under this subsection shall expire five years from the date of**
36 **issuance; and no CATV company holding such certificate shall be**
37 **authorized to continue its operations after such expiration unless**
38 **prior thereto it shall have obtained a certificate under the**
39 **procedures specified in subsections a. through d. of this section,**
40 **except that such a CATV company which has initiated proceedings**
41 **for certification under subsections a. through d. of this section prior**
42 **to the expiration of a certificate granted under this subsection may**
43 **continue its operations pending the final disposition of such**
44 **proceedings. An application pursuant to this subsection shall be**
45 **accompanied by a filing fee of \$50.00.】** (Deleted by amendment,
46 P.L. , c.) (pending before the Legislature as this bill)
47 (cf: P.L.1986, c.163, s.1)

1 15. Section 18 of P.L.1972, c.186 (C.48:5A-18) is amended as
2 follows:

3 18. a. Any hearing held pursuant to the provisions of section 16
4 or section 17 of **[this act]** P.L.1972, c.186 (C.48:5A-16; C.48:5A-
5 17) shall be open to the public, and notice thereof shall be published
6 by the **[director]** applicant at least 10 days prior thereto in a
7 newspaper or newspapers of general circulation throughout the
8 State **[(1) if the hearing is upon application for certification, in each**
9 **municipality comprised, in whole or part, in the area for which**
10 **certification is sought, or (2) if the hearing is upon an application**
11 **under subsection e. of section 17, in each municipality comprised in**
12 **whole or part, in the certificated area or area for which certification**
13 **is sought, of the CATV system of the applicant CATV company,**
14 **and also each other municipality whose refusal of municipal action**
15 **or authorization is involved in the application].**

16 b. Every municipality may intervene in any hearing or
17 investigation held under the authority of **[this act]** P.L.1972, c.186
18 (C.48:5A-1 et seq.) which involves rates, charges, services or
19 facilities affecting the municipality or the public within the
20 municipality.

21 c. For the purpose of defraying the administrative expenses of
22 hearings held pursuant to section 16 or 17 of **[this act]** P.L.1972, c.
23 186 (C.48:5A-16; C.48:5A-17), the applicant CATV company shall
24 be required to pay to the Office of Cable Television a fee not in
25 excess of **[\$50.00]** \$500 per day of hearing or fraction thereof,
26 according to such fee schedule as the director shall from time to
27 time adopt by rule. Such fee shall be in addition to any filing fee
28 imposed pursuant to sections **[17]** 16 and 18 of **[this act]**
29 P.L.1972, c.186 (C.48:5A-16; C.48:5A-18); the amount shall be due
30 and payable upon presentation of an invoice.

31 d. All fees and charges collected under the provisions of section
32 16, **[17]** or 18 of **[this act]** P.L.1972, c.186 (C.48:5A-16; C.48:5A-
33 18) shall be received by the director for the sole use of the State,
34 and **[he]** the director shall report on and return to the State
35 Treasurer all such fees and charges collected **[by him]**.
36 (cf: P.L.1972, c.186, s.18)

37
38 16. Section 19 of P.L.1972, c.186 (C.48:5A-19) is amended to
39 read as follows:

40 19. A **[certificate of approval]** Statewide franchise issued by the
41 board shall be nontransferable, except by consent of the board;
42 **[shall specify the area to which it applies and the municipal**
43 **consents upon which it is based,]** and shall be valid for 15 years
44 from the date of issuance or 20 years from the date of issuance if
45 the board certifies that a CATV company has implemented an open
46 video system in accordance with 47 U.S.C. s.573 **[within one year**

1 after receiving a municipal consent, or until the expiration,
2 revocation, termination or renegotiation of any municipal consent
3 upon which it is based, whichever is sooner. But amendment of the
4 terms of a municipal consent by mutual consent and in conformity
5 with the procedures specified in this act during the term for which it
6 was issued shall not require the issuance of a new certificate of
7 approval. A CATV company holding a certificate based upon a
8 municipal consent with a provision for automatic renewal for a term
9 not exceeding 10 years beyond its expiration date or 15 years
10 beyond its expiration date if the board certifies that the CATV
11 company has implemented an open video system in accordance with
12 47 U.S.C. s.573, shall be entitled to automatic reissuance of a
13 certificate for such term, unless it shall forfeit such entitlement by
14 violation of any terms of this act, regulations issued pursuant
15 thereto, or by the terms of the municipal consent]. Renewal of a
16 Statewide franchise shall be valid for 15 years from the date of the
17 renewal issuance, and the board shall establish rules governing the
18 renewal of a Statewide franchise.
19 (cf: P.L.2003, c.38, s.4)

20

21 17. Section 20 of P.L.1972, c.186 (C.48:5A-20) is amended to
22 read as follows:

23 20. a. Upon obtaining the prior approval of the board, a CATV
24 company may construct and maintain the wires, cables, and
25 conduits necessary to its business upon, under or over any highway,
26 and may erect and maintain the necessary fixtures, including poles
27 and posts, for sustaining such wires and cables; provided, however,
28 that such wires, cables and fixtures shall be so placed or constructed
29 as not to unreasonably inconvenience public travel on the highway
30 or the use thereof by public utilities or other persons or
31 organizations having rights therein.

32 b. Whenever the **Board** board shall find that public
33 convenience and necessity require the use by a CATV company or a
34 public utility of the wires, cables, conduits, poles or other
35 equipment, or any part thereof, on, over or under any highway or
36 any right-of-way and belonging to another CATV company or
37 public utility, and that such use will not result in injury to the owner
38 or other users of such equipment or any right-of-way or in any
39 substantial detriment to the service, and that such CATV companies
40 or public utilities have failed to agree upon such use or the terms
41 and conditions or compensation for the same, the **office** board
42 may order that such use be permitted and prescribe a reasonable
43 compensation and reasonable terms and conditions for the joint use.
44 If such use is ordered, the CATV company or public utility to which
45 the use is permitted shall be liable to the owner or other users of
46 such equipment for such damage as may result therefrom to the

1 property of such owner or other users thereof.
2 (cf: P.L.1972, c.186, s.20)

3
4 18. Section 7 of P.L.1991, c.412 (C.48:5A-20.1) is amended to
5 read as follows:

6 7. Within 30 days after the effective date of **【this act】** P.L. , c.
7 (C.) (pending before the Legislature as this bill), the **【Board of**
8 **Regulatory Commissioners】** board shall notify the general manager
9 of every cable television company that, in order to receive notice by
10 an applicant pursuant to subsection h. of section 7.1 of P.L.1975,
11 c.291 (C.40:55D-12), the cable television company shall register
12 with any municipality in which the cable television company has
13 plant located in a right-of-way or easement.
14 (cf: P.L.1991, c. 412, s.7)

15
16 19. Section 21 of P.L.1972, c.186 (C.48:5A-21) is amended to
17 read as follows:

18 21. Upon the prior approval of the **【Board】** board, any person
19 may lease or rent or otherwise make available facilities or rights-of-
20 way, including pole space, to a CATV company for the
21 redistribution of television signals to or toward the customers or
22 subscribers of such CATV company. Any lease, rental or other
23 method of making available such facilities or rights-of-way,
24 including pole space, which is in effect on the effective date of **【this**
25 **act】** P.L. , c. (C.) (pending before the Legislature as this bill)
26 and which will be in effect for a period of more than 120 days after
27 **【the effective】** that date **【of this act】** shall be submitted to the
28 board for approval within 120 days after **【the effective】** that date
29 **【of this act】**, and if such lease or rental or other method is
30 disapproved by the board it shall thereupon become void. The
31 terms and conditions, including rates and charges to the CATV
32 company, imposed by any public utility under any such lease, rental
33 or other method of making available such facilities or rights-of-
34 way, including pole space, to a CATV company shall be subject to
35 the jurisdiction of the **【Board of Public Utility Commissioners】**
36 board in the same manner and to the same extent that rates and
37 charges of public utilities generally are subject to the board's
38 jurisdiction by virtue of the appropriate provisions of Title 48 of the
39 Revised Statutes.

40 (cf: P.L.1972, c.186, s.21)

41
42 20. (New section) Municipal consents and certificates of
43 approval for applications to provide cable television services in a
44 municipality issued prior to the effective date of P.L. , c. (C.)
45 (pending before the Legislature as this bill) shall remain in effect
46 until such time as they may expire or until such time as the cable
47 television company is granted a renewal of the franchise as a

1 Statewide franchise. Both the municipality and the cable television
2 company shall be bound by the terms of the municipal consents and
3 certificates of approval until such time as the municipal consents
4 and certificates of approval have been converted or renewed into a
5 Statewide franchise. A cable television company with a franchise
6 or franchises issued prior to the effective date of P.L. , c.
7 (C.) (pending before the Legislature as this bill) may, if it
8 wishes, seek early renewal of such franchise or franchises as a
9 Statewide franchise. All renewals, whether sought early or at the
10 expiration of the franchise, shall be consolidated under a single
11 Statewide franchise for each cable television company. No further
12 municipal consents or certificates of approval shall be issued after
13 the effective date of P.L. , c. (C.) (pending before the
14 Legislature as this bill). Nothing herein shall preclude a
15 municipality from enforcing its right-of-way management powers
16 on a non-discriminatory basis.

17

18 21. (New section) a. As part of any Statewide franchise issued
19 by the board pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.), a
20 cable television company shall be required to:

21 (1) provide service to any and all municipalities in which the
22 company, at the time of the issuance of the Statewide franchise,
23 either has plant or equipment in use for the provision of any
24 consumer video, cable or telecommunications service, including
25 telephone service, or has proposed to place such plant or equipment
26 into use to provide such service in accordance with a schedule of
27 construction of the necessary plant, which schedule shall be
28 approved by the board in conjunction with the issuance of the
29 Statewide franchise;

30 (2) provide service to all groups of potential residential cable
31 television subscribers within a municipality, without discrimination
32 on the basis of economic or commercial desirability factors such as
33 the comparative incomes levels of, or the ease of access to, the
34 residents of the local area in which such groups reside;

35 (3) fully complete a system capable of providing cable
36 television service to all residents of a municipality subject to any
37 line extension rules, regulations or policies as set or approved by
38 the board; and

39 (4) not later than six years from the date on which the Statewide
40 franchise is issued, fully complete a system capable of providing, to
41 every municipality in the State, cable television service that meets
42 the requirements of paragraphs (2) and (3) of this subsection.

43 b. Any person affected by the requirements of subsection a. of
44 this section may seek enforcement of such requirements by
45 initiating a proceeding with the board. As used in this section, an
46 affected person includes a municipality within which the potential
47 residential subscribers referred to in subsection a. of this section
48 reside.

1 c. If the board determines that a cable television company has
2 denied access to cable television service to a group of potential
3 residential subscribers on the basis of income level or other
4 commercial desirability factors, the board is authorized to direct the
5 provider to rectify the noncompliance, and to enforce such directive
6 through any appropriate method, including the imposition of
7 monetary penalties and disgorgement set forth in section 51 of
8 P.L.1972, c.186 (C.48:5A-51). A municipality in which the
9 provider offers cable television service shall be an appropriate party
10 in any such proceeding.

11

12 22. Section 26 of P.L.1972, c.186 (C.48:5A-26) is amended to
13 read as follows:

14 26. a. 【An】 With regard to any municipal consent and
15 certificate of approval issued prior to the effective date of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), the
17 ordinance issuing a municipal consent pursuant to **【this act】**
18 P.L.1972, c.186 (C.48:5A-1 et seq.) shall designate some officer,
19 office, bureau or other agency of the municipal government as
20 "complaint officer" to receive and act upon complaints by
21 subscribers to cable television reception service of the CATV
22 company to which such consent is issued; and shall provide for the
23 establishment of procedures and methods by which such complaints
24 shall be received, processed and acted upon, for the resolution and
25 settlement of complaints and disputes between such subscribers
26 and the company, and for the enforcement of decisions made by
27 such "complaint officer." All complaints by such subscribers
28 alleging inadequate, unsafe or improper service or failure by the
29 company to comply with the terms of the municipal consent shall be
30 made in the first instance to such "complaint officer." The
31 "complaint officer" shall, within 30 days of the receipt of such a
32 complaint, report in writing to the subscriber the disposition or
33 status of **【his】** the subscriber's complaint. Any subscriber or
34 CATV company aggrieved by the action of a "complaint officer" in
35 connection with such complaint or dispute, or any subscriber who
36 shall not have received the written report required under this section
37 within 30 days, may petition the office for a hearing upon said
38 complaint, under the rules promulgated by the director for the
39 hearing and disposition of such matters.

40 b. 【Any】With respect to a municipal consent and certificate of
41 approval issued prior to the effective date of P.L. , c. (C.)
42 (pending before the Legislature as this bill), any municipality may,
43 in lieu of complying with the terms of subsection a. of this section,
44 provide in the ordinance issuing its municipal consent that
45 complaints by local subscribers to cable television reception service
46 shall be filed directly with the office, which shall thereupon be
47 deemed the "complaint officer" for purposes of this section.

1 c. Each CATV company **[receiving a municipal consent]**, with
2 respect to either a municipal consent and certificate of approval
3 issued prior to the effective date of P.L. , c. (C.) (pending
4 before the Legislature as this bill) or a Statewide franchise issued
5 pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.), shall provide to
6 each subscriber to its cable television reception service, at the time
7 **[of his becoming]** that person becomes a subscriber and at least
8 once in each calendar year thereafter while **[he]** that person
9 remains a subscriber, in a form approved by the director,
10 information as to the identity of the "complaint officer," **[of]** which
11 for Statewide franchises shall be the Office of Cable Television, the
12 identity and location of the local business office or agent required
13 under subsection d. of this section, and **[of]** the procedure to be
14 followed in making and pursuing complaints to the "complaint
15 officer" or the office pursuant to this section.

16 d. A **[municipal consent]** Statewide franchise issued pursuant to
17 **[this act]** P.L.1972, c.186 (C.48:5A-1 et seq.) shall require that the
18 CATV company to which it is issued shall maintain **[a]** local
19 business **[office or agent]** offices or agents within the political
20 boundary of the municipality served or, with the prior approval of
21 the board, within ten miles of the political boundary of the
22 municipality, for the purpose of receiving, investigating and
23 resolving all complaints regarding the quality of service, equipment
24 malfunctions, and similar matters.

25 (cf: P.L.1972, c.186, s.26)

26

27 23. Section 8 of P.L.2003, c.38 (C.48:5A-26.1) is amended to
28 read as follows:

29 8. a. In addition to the requirements as provided in section 26 of
30 P.L.1972, c.186 (C.48:5A-26), the board shall, upon notice, by
31 order in writing require every CATV company to keep for at least a
32 period of **[one year]** three years, a record of complaints received at
33 the CATV company's office, which shall include the name and
34 address of the subscriber, the date, the nature of complaint, any
35 corrective action taken if required, and the final disposition of the
36 complaint. The record shall be available for inspection by the staff
37 of the office. Copies of such record shall be provided to the staff of
38 the office upon request.

39 b. Every CATV company shall furnish to the office annually a
40 detailed report of the number and character of complaints made by
41 customers and communicated to the CATV company. In meeting
42 such requirement, the board shall establish a procedure for CATV
43 companies to record and characterize those customer complaints
44 using a uniform reporting methodology and containing those
45 matters as the board may from time to time prescribe. Copies of the
46 report shall be forwarded to the Governor and members of the
47 Legislature. All reports submitted to the office shall comply with

1 the provisions of the "Cable Subscriber Privacy Protection Act,"
2 P.L.1988, c.121 (C.48:5A-54 et seq.).
3 (cf: P.L.2003, c.38, s.8)
4

5 24. Section 28 of P.L.1972, c.186 (C.48:5A-28) is amended to
6 read as follows:

7 28. In addition to whatever other information may be required
8 by the director under duly promulgated rules and regulations to be
9 contained in any application for a **【municipal consent】** Statewide
10 franchise, each such application shall contain:

11 a. A **【description of the area to be served】** deployment schedule,
12 setting forth the municipalities to be served, the date service shall
13 begin in each proposed municipality, and a date certain by which
14 each community will be fully built-out, subject to the build-out
15 requirements set forth in P.L.1972, c.186 (C.48:5A-1 et seq.).

16 b. A description of the proposed service in terms of the number
17 of channels of cable television reception service.

18 c. Sufficient evidence that the applicant company has the
19 financial and technical capacity and the legal, character and other
20 qualifications to construct, maintain and operate the necessary
21 installations, lines and equipment and to provide the service
22 proposed in a safe, adequate and proper manner.

23 d. Evidence of sufficient bond, or commitment therefor, with
24 sureties to be approved by the **【municipality】** office, in the penal
25 sum of not less than \$25,000.00 for the faithful performance of all
26 undertakings by the company as represented in the application; the
27 sufficiency of which shall be subject to review by the director and
28 approval by the board.

29 e. An undertaking to hold the **【municipality】** board and all
30 municipalities served harmless from any liability arising out of the
31 company's operation and construction of its CATV system.

32 f. Evidence of sufficient insurance insuring the **【municipality】**
33 board, all municipalities served and the company with respect to all
34 liability for any death, personal injury, property damage or other
35 liability arising out of the company's construction and operation of
36 its CATV system; the sufficiency of which shall be subject to
37 review by the director and approval by the board. Such insurance
38 shall be **【in the minimum amounts of】** no less than: (1) \$150,000.00
39 for bodily injury or death to any one person, within the limit,
40 however, of \$500,000.00 for bodily injury or death resulting from
41 any one accident, (2) \$100,000.00 for property damage resulting
42 from any one accident, and (3) \$50,000.00 for all other types of
43 liability; the sufficiency of which shall be subject to review by the
44 director and approval by the board.

45 g. A schedule of proposed rates for cable television reception
46 service, which rates shall not be altered during the term for which
47 the **【municipal consent】** franchise is issued, except by application

1 to the board for amendment of the terms and conditions of said
2 **[consent] franchise** after public hearing, subject to the rules of the
3 office, review by the director and approval by the board, or
4 amendment pursuant to the provisions of subsection c. of section 16
5 of **[this act] P.L.1972, c.186 (C.48:5A-16)** or subsection b. of
6 section 11 of **[this act] P.L.1972, c.186 (C.48:5A-11)**.

7 h. A commitment as to those municipalities that are served by a
8 cable television provider at the time of the application, to match or
9 surpass any line extension policy placed into effect by a local
10 franchise or certificate of approval, for the duration of the Statewide
11 franchise. In any event, the cable television company shall extend
12 its plant along public rights-of-way to all residences and businesses
13 within 150 aerial feet of the operator's existing plant at no cost
14 beyond the normal installation rate, and to all residences and
15 businesses within 100 underground feet of the operator's plant at no
16 cost beyond the normal installation rate, and shall set a minimum
17 house per mile density of no more than 35 homes per mile. This
18 commitment shall be in addition to any and all board orders and
19 rules that impact upon the extension of plant, including, but not
20 limited to, the board's regulations adopted pursuant to N.J.A.C.
21 14:3-8.1 et seq.

22 i. A commitment to provide to each municipality that is served
23 by a cable television provider, with two public, educational and
24 governmental access channels. In the event that two or more access
25 channels are requested by a municipality, the municipality shall
26 demonstrate that its cable-related needs require the provision of
27 such additional access channels. Any and all cable television
28 providers operating in a municipality shall provide interconnection
29 to all other cable television providers on reasonable terms and
30 conditions and the board shall adopt regulations for procedures by
31 which disputes between such cable television providers shall be
32 determined and expeditiously resolved. Each municipality or its
33 non-profit designee shall assume responsibility for the management,
34 operations and programming of the public, educational and
35 governmental access channels.

36 j. A commitment to retain or provide, without charge, one
37 service outlet activated for basic service to any and all fire stations,
38 public schools, police stations, public libraries, and other such
39 buildings used for municipal purposes.

40 k. A commitment to provide free Internet service, without
41 charge, through one service outlet activated for basic service to any
42 and all fire stations, public schools, police stations, public libraries,
43 and other such buildings used for municipal purposes.

44 l. A commitment to provide equipment and training for access
45 users, without charge, on a schedule to be agreed upon between the
46 municipality and the cable television operator.

47 m. A commitment to provide a return feed from any one location

1 in the municipality, without charge, to the cable television
2 company's headend or other location of interconnection to the cable
3 television system for public, educational or governmental use and
4 which, at a minimum, provides the ability for the municipality to
5 cablecast live or taped access programming, in real time, as may be
6 applicable, to the cable television company's customers in the
7 municipality. A cable television company shall only be required to
8 provide a return line without charge if such return line would be
9 within the distance of a standard installation, as defined by the
10 cable television company and specified in the tariff on file with the
11 board. If an installation exceeds the distance limitations of a
12 standard installation, the cable television company may only charge
13 the municipality for the costs of extending the line beyond the
14 distance limitations of standard installation costs. No cable
15 television company is responsible for providing a return access line
16 unless a municipality requests a line in writing. A cable television
17 company that has interconnected with another cable television
18 company may require the second cable television company to pay
19 for half of the cable television company's absorbed costs for
20 extension. The board shall adopt rules for procedures for resolving
21 disputes between cable television companies and between cable
22 television companies and municipalities concerning the provisions
23 of this section.

24 (cf: P.L.1972, c.186, s.28)

25

26 25. (New section) a. In the event the cable television company
27 is required to modify any element of the franchise application,
28 including the deployment schedule, the cable television company
29 shall seek prior board approval.

30 b. All of the elements required to be included in the franchise
31 application pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) shall be
32 considered as part of the commitment of the Statewide franchise,
33 and shall form, in part, the foundation for the board's decision as to
34 the Statewide franchise. The failure of a cable television company
35 to abide by or conform its practices to the commitments in the
36 application shall be considered a violation of the Statewide
37 franchise, and the board may enforce these provisions through any
38 appropriate method, including the imposition of penalties and
39 disgorgement under section 51 of P.L.1972, c.186 (C.48:5A-51), or
40 the suspension or revocation of the Statewide franchise.

41

42 26. Section 29 of P.L.1972, c.186 (C.48:5A-29) is amended to
43 read as follows:

44 29. All proposals and representations included in an application
45 for **【municipal consent】** a Statewide franchise shall conform to
46 applicable rules and regulations of the office; except that nothing in
47 **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.) shall be construed to

1 prevent an applicant from exceeding minimum requirements set by
2 the office, or offering facilities and services not required or
3 forbidden by such rules and regulations.

4 (cf: P.L.1972, c.186, s.29)

5
6 27. Section 30 of P.L.1972, c.186 (C.48:5A-30) is amended to
7 read as follows:

8 30. a. In consideration of a **[municipal consent]** Statewide
9 franchise issued under **[this section]** P.L.1972, c.186 (C.48:5A-1 et
10 seq.), the CATV company to which **[it]** the Statewide franchise is
11 issued shall annually pay: (1) to [the] each municipality [granting
12 the same] served by the CATV company, in lieu of all other
13 franchise taxes and municipal license fees, except as may otherwise
14 be provided by this subsection, a sum equal to [2%] three percent
15 of the gross revenues [from all recurring charges in the nature of
16 subscription fees paid by subscribers to its cable television
17 reception service in such municipality] that the company derives
18 during the calendar year from all the charges or fees paid by
19 subscribers in the municipality to the company for providing cable
20 television service for basic, expanded basic and premier tier
21 programming, for pay-per-view events, seasonal or sporting events
22 of limited duration, and for all similar programming or channels;
23 (2) to the county in which such municipality is located, a sum equal
24 to one half of one percent of the gross revenues that the company
25 derives during the calendar year from all the charges or fees paid by
26 subscribers in the municipality to the company for providing cable
27 television service for basic, expanded basic and premier tier
28 programming, for pay-per-view events, seasonal or sporting events
29 of limited duration, and for all similar programming or channels;
30 and (3) to persons residing in the municipality who are eligible for
31 the "Pharmaceutical Assistance to the Aged and Disabled" program
32 established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), a sum
33 equal to the amount that such eligible persons pay as charges or fees
34 to the company for providing the basic tier programming service to
35 such persons, provided that the yearly total of such payments from
36 the company does not exceed one half of one percent of the gross
37 revenues that the company derives during the calendar year from all
38 the charges or fees paid by subscribers in the municipality to the
39 company for providing cable television service for basic, expanded
40 basic and premier tier programming, for pay-per-view events,
41 seasonal or sporting events of limited duration, and for all similar
42 programming or channels. Each CATV company shall, on or before
43 the twenty-fifth day of January each year, file with the chief fiscal
44 officer of each municipality and county, in the territory in which it
45 is certificated to operate a statement, verified by oath, showing the
46 gross receipts from such charges, and shall at the same time pay
47 thereon: (1) to [said]the chief fiscal officer of the municipality the

1 **[2%]** three percent charge hereby imposed on those receipts as a
2 yearly franchise revenue for the use of the streets, which sum the
3 municipality may use as part of its general revenue fund or to meet
4 the cable-related needs of the municipality; (2) to the chief fiscal
5 officer of the county in which the municipality is located the one
6 half of one percent charge hereby imposed on those receipts as a
7 yearly fee for payment of the costs of providing recreational
8 programs in the county; and (3) to eligible subscribers residing in
9 the municipality an amount equal to the charges or fees paid by
10 such subscribers during the preceding calendar year to the company
11 for providing the basic tier of cable television service to such
12 subscribers, provided that the yearly total of such payments by the
13 company to such subscribers does not exceed the one half of one
14 percent charge hereby imposed.

15 b. **[Any CATV company which, pursuant to any agreement in**
16 **effect prior to the date of this act, paid or had agreed to pay to any**
17 **municipality in fees or other charges in consideration of the**
18 **consent of such municipality to the use of streets, alleys and public**
19 **places thereof for the installation and operation of a CATV system,**
20 **or similar consideration, a sum or rate exceeding that which it**
21 **would pay pursuant to this section shall, in applying for a certificate**
22 **(other than the certificate granted pursuant to subsection f. of**
23 **section 17 of this act) show to the satisfaction of the board that the**
24 **reduction in such payments effectuated by the application of this**
25 **section shall be reflected in (1) commensurate reduction of rates to**
26 **subscribers to cable television reception service or (2)**
27 **commensurate improvements in such service made available to**
28 **such subscribers. If the board is not so satisfied it shall amend, as**
29 **excessive, the rate schedule contained in the application so that**
30 **such rates shall be reduced to a degree commensurate with the**
31 **reduction in payments by the CATV company to the municipality.]**
32 (Deleted by amendment, P.L. , c.) (pending before the
33 Legislature as this bill)

34 c. **[A municipality may petition the board for permission to**
35 **charge a yearly franchise fee exceeding that prescribed in**
36 **subsection a. of this section. A municipal consent setting such a fee**
37 **in excess of the amount prescribed in subsection a. of this section**
38 **shall be deemed to constitute such a petition when filed with the**
39 **board pursuant to section 16 of this act as part of an application for**
40 **certificate of approval. A hearing pursuant to the provisions of**
41 **section 16 shall be held upon any application containing such**
42 **petition, or upon any such petition separately filed, and at such**
43 **hearing full notice and opportunity to be heard upon the matter**
44 **shall be accorded to both the municipality and any CATV company**
45 **affected thereby. The board after such hearing and upon**
46 **recommendation of the director may grant such petition and allow**
47 **the imposition of a franchise revenue exceeding that prescribed in**

1 subsection a. of this section, and at a rate to be prescribed by the
2 board, when the board is satisfied that the same is warranted by the
3 expenses to the municipality with respect to the regulation or
4 supervision within its territory of cable television, or any other
5 expenses caused by the existence and operation within its territory
6 of cable television.】 (Deleted by amendment, P.L. , c.)
7 (pending before the Legislature as this bill)

8 d. Under any municipal consent and certificate of approval
9 issued prior to the effective date of P.L. , c. (C.) (pending
10 before the Legislature as this bill), and in consideration of such
11 municipal consent and certificate of approval, the cable television
12 company to which they were issued shall pay to the municipality
13 which granted the same, in lieu of all other franchise taxes and
14 municipal license fees, a sum equal to two percent of the gross
15 revenues from all recurring charges in the nature of subscription
16 fees paid by subscribers to its cable television reception service in
17 such municipality. Each cable television company shall, on or
18 before the twenty-fifth day of January each year, file with the chief
19 fiscal officer of each municipality in the territory in which it is
20 certificated to operate a statement, verified by oath, showing the
21 gross receipts from such charges, and shall at the same time pay
22 thereon to said chief fiscal officer the two percent charge hereby
23 imposed as a yearly franchise revenue for the use of the streets.
24 (cf: P.L.1972, c.186, s.30)
25

26 28. Section 47 of P.L.1972, c.186 (C.48:5A-47) is amended to
27 read as follows:

28 47. The board may, after affording the holder an opportunity to
29 be heard, revoke, suspend or alter any certificate of approval or
30 franchise for the violation of any provisions of **【this act】** P.L.1972,
31 c.186 (C.48:5A-1 et seq.) or the rules, regulations or orders made
32 under authority of **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.),
33 or for other reasonable cause, upon a finding that the revocation,
34 suspension or alteration will not adversely affect the public interest
35 in the provision of safe, adequate and proper cable television
36 service in this State.
37 (cf: P.L.1972, c.186, s.47)
38

39 29. Section 51 of P.L.1972, c.186 (C.48:5A-51) is amended to
40 read as follows:

41 51. a. Any person or any officer or agent thereof who shall
42 knowingly violate any of the provisions of **【this act】** P.L.1972,
43 c.186 (C.48:5A-1 et seq.) or aid or advise in such violation, or who,
44 as principal, manager, director, agent, servant or employee
45 knowingly does any act comprising a part of such violation, is
46 guilty of a misdemeanor.

47 b. Any person who shall violate any provision of **【this act】**

1 P.L.1972, c.186 (C.48:5A-1 et seq.) or any rule, regulation or order
2 duly promulgated hereunder, shall be liable to a penalty of not more
3 than **[\$500.00 for a first offense, not less than \$100.00 nor more**
4 **than \$1,000.00 for a second offense, and not less than \$500.00 nor**
5 **more than \$1,000.00 for a third and every subsequent offense]**
6 \$10,000 as well as disgorgement of economic benefits received by
7 any person or persons committing such violation. The penalties and
8 return of economic benefits provided in this subsection **[shall] may**
9 be enforced by summary proceedings instituted by the board in the
10 name of the State in accordance with **["the penalty enforcement**
11 **law" (N.J.S.2A:58-1 et seq.).** The Superior Court and the municipal
12 courts shall have jurisdiction to enforce said "penalty enforcement
13 law" in connection with this act] the "Penalty Enforcement Law of
14 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition, the board
15 may, after hearing, suspend a Statewide franchise for a period of up
16 to five years, or may revoke a Statewide franchise. A person whose
17 franchise is revoked shall be barred from making a new application
18 for a Statewide franchise for five years from the date of revocation.
19 In the case of a cable television service provider who has failed to
20 fully complete a system capable of providing cable service to every
21 municipality in the State in violation of paragraph (4) of subsection
22 b. of section 20 of P.L. , c. (C.) (pending before the
23 Legislature as this bill), or who has denied cable television service
24 access to a group of potential residential subscribers on the basis of
25 income level or other commercial desirability factors in violation of
26 subsection c. of section 20 of P.L. , c. (C.) (pending
27 before the Legislature as this bill), the person's Statewide franchise
28 shall be revoked, and the person shall be barred from making a new
29 application for a Statewide franchise for five years from the date of
30 revocation.

31 c. Whenever it shall appear to the board that any person has
32 violated, intends to violate, or will violate any provisions of this act
33 or any rule, regulation or order duly promulgated hereunder, the
34 board may institute a civil action in the Superior Court for
35 injunctive relief and for such other relief as may be appropriate in
36 the circumstances, and the said court may proceed in any such
37 action in a summary manner.
38 (cf: P.L.1991, c.91, s.470)

39
40 30. Section 6 of P.L. 2003, c.38 (C.48:5A-64) is repealed.

41
42 31. This act shall take effect immediately, but sections 1 through
43 30 shall be inoperative until the 90th day after enactment, except
44 that the board may take such anticipatory administrative action as
45 may be necessary to effectuate the purposes of P.L. , c. (C.)
46 (pending before the Legislature as this bill).

STATEMENT

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The bill amends the State's "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) (the "act") to provide for the approval of Statewide franchises for cable television companies to construct or operate a cable system anywhere within the State.

Under current law, cable television ("CATV") companies are required to obtain municipal consent in the form of an ordinance before they may obtain a certificate of approval from the Board of Public Utilities (the "BPU") to provide cable television service within a particular municipality.

The bill amends section 3 of P.L.1972, c.186 (C.48:5A-3) to clarify the definition of CATV system and to expand the definition to include facilities of either a telephone common carrier or an electric public utility subject to BPU regulation to the extent that such facilities are used for transmission of video programming.

The bill also amends section 3 of P.L.1972, c.186 (C.48:5A-3) to expand the definition of CATV company to include telecommunications service providers and to add certain definitions to section 3 of P.L.1972, c.186 (C.48:5A-3) to clarify the meaning of terms such as Statewide franchise, local franchising authority, telecommunications service and video reception service.

The bill amends section 2 of P.L.1985, c.356 (C.48:5A-11.2) to include eligible members of economically disadvantaged groups as persons who may receive a reduction or discount for CATV service.

The bill amends section 16 of the act to require an application for a Statewide franchise to: (1) be in written form; (2) include such information as may be required by the Director of the office of Cable Television (the "director"); and (3) be accompanied by a filing fee of \$1,000 (which is increased from the current fee of \$100).

The bill amends section 17 of the act to authorize issuance of a Statewide franchise by the BPU if the applicant establishes to the BPU's satisfaction that all federal and State requirements have been met. The bill amends section 18 of the act to increase the fee for hearing an application for a Statewide franchise from \$50 to \$500 per day to defray administrative expenses.

The bill amends section 19 of the act to provide that: (1) a Statewide franchise shall not be transferable except by consent of the BPU; (2) renewal of a Statewide franchise shall be valid for 15 years from the renewal issuance date; and (3) the BPU shall establish rules governing the renewal of Statewide franchises.

Section 20 of the bill provides that any municipal consent and certificate of approval issued prior to the effective date of the bill for existing CATV providers shall remain in effect until they expire or until the CATV provider is granted a Statewide franchise. Section 22 also provides that no further municipal consents or certificates of approval shall be issued after the effective date of the

1 bill.

2 Section 21 of the bill requires that as part of any Statewide
3 franchise issued by the BPU, a CATV provider shall be required to:

4 (1) provide service to all municipalities in which a CATV
5 provider has plant or equipment in use, or has proposed to place
6 into use, for providing CATV service in accordance with a schedule
7 approved by the BPU;

8 (2) provide such service to all groups within a municipality on a
9 non-discriminatory basis;

10 (3) fully complete a CATV service system subject to line
11 extension rules, regulations or policies set or approved by the BPU;
12 and

13 (4) not later than six years from the date on which the Statewide
14 franchise is issued, fully complete a system capable of providing, to
15 every municipality in the State, CATV service that meets the
16 requirements of paragraphs (2) and (3) of this subsection.

17 Section 21 of the bill also allows any person affected by the
18 requirements of a Statewide franchise to initiate proceedings with
19 the BPU to determine whether there has been a denial of access and
20 authorizes the BPU to impose appropriate penalties to direct the
21 provider to comply with the Statewide franchise requirements.

22 Section 24 of the bill amends section 28 of P.L.1972, c.186
23 (C.48:5A-28) to require that an application for a Statewide
24 franchise contain, in addition to other information required by the
25 director, a deployment schedule setting forth the municipalities to
26 be served, the dates that service shall begin in each municipality
27 and the dates by which the build out requirements shall be met
28 pursuant to the act.

29 In addition, section 24 of the bill requires a commitment from a
30 CATV provider to:

31 (1) match or surpass any line extension policy in effect at the
32 time of the provider's application for a Statewide franchise, for the
33 duration of the franchise;

34 (2) provide each municipality served with two public,
35 educational or governmental access channels;

36 (3) provide, without charge, one basic service outlet and free
37 Internet service to fire stations, public schools, police stations,
38 public libraries and other municipal buildings; and

39 (4) provide a return feed from any one location in the
40 municipality, without charge, to the CATV company's headend or
41 other location of interconnection for public, educational or
42 governmental use that enables the municipality to cablecast live or
43 taped access programming to CATV customers in the municipality.

44 The bill amends section 30 of the act to require CATV providers
45 to pay:

46 (1) to the municipality served, a sum equal to three percent of
47 gross revenues derived from all tier levels of CATV programming
48 including pay-per-view events, seasonal or sporting events of

1 limited duration, and other similar programming or channels
2 provided to subscribers within the municipality;

3 (2) to the county in which the municipality is located, a sum
4 equal to one half of one percent of such gross revenues; and

5 (3) to persons residing in the municipality served who are
6 eligible for the "Pharmaceutical Assistance to the Aged and
7 Disabled" program established pursuant to P.L.1975, c.194
8 (C.30:4D-20 et seq.), a sum equal to the amount such persons pay
9 annually for basic tier CATV service provided that such payments
10 do not exceed one half of one percent of such gross revenues.

11 The bill further amends section 30 of the act to provide that:

12 (1) the three percent paid to municipalities by CATV companies
13 pursuant to section 30 of the act may be used as part of the general
14 revenue fund for municipal purposes or to meet cable-related needs
15 of the municipality;

16 (2) the one half of one percent paid to the county in which such
17 municipality is located pursuant to section 30 of the act shall be
18 allocated for payment of recreational programs in the county; and

19 (3) the payments required to be made to eligible CATV
20 subscribers for basic CATV service pursuant to section 30 of the act
21 shall not exceed an amount equal to the one half of one percent
22 charge imposed by section 30 of the act.

23 The bill also amends section 30 of the act to provide that CATV
24 companies issued municipal consents and certificates of approval
25 prior to the effective date of the bill, shall continue to pay to the
26 municipality two percent of the gross revenues from providing basic
27 CATV service to subscribers in the municipality for the use of
28 streets.

29 This bill amends section 51 of the act to increase penalties for
30 violation of the act to \$10,000 as well as disgorgement of economic
31 benefits received by persons committing violations of the act. The
32 bill authorizes the BPU to suspend a violator's Statewide franchise
33 for up to five years, or to revoke a violator's franchise. A person
34 whose Statewide franchise is revoked would be barred for five years
35 from reapplying for a new Statewide franchise. A cable television
36 service franchisee who has failed to meet the six-year deadline for
37 completion of a system capable of providing cable service to every
38 municipality in the State, or who has denied cable television service
39 access to a group of potential residential subscribers on the basis of
40 income level or other commercial desirability factors, shall be
41 subject to revocation of the Statewide franchise and barred for five
42 years from making a new application for a Statewide franchise.

43 The bill also amends the act to clarify eligibility for various
44 discounts that may be offered to subscribers and to update and
45 clarify certain provisions of the act.