

ASSEMBLY, No. 194

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman KEVIN J. ROONEY

District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Requires cable television companies to provide cable television service and broadband Internet speed to all committed service areas before cable television companies allow paid prioritization of Internet network traffic.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A194 ROONEY

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1 AN ACT concerning cable television companies and broadband
2 infrastructure and amending P.L.1972, c.186.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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

9 28. Each application for a municipal consent or system-wide
10 franchise shall contain:

11 a. A description of the initial area to be served.

12 b. A description of the proposed service in terms of the number
13 of channels of cable television reception service.

14 c. Sufficient evidence that the applicant has the financial and
15 technical capacity and the legal, character and other qualifications
16 to construct, maintain and operate the necessary installations, lines
17 and equipment and to provide the service proposed in a safe,
18 adequate and proper manner.

19 d. Evidence of sufficient bond, or commitment therefor, with
20 sureties to be approved by the office, in the penal sum of not less
21 than \$25,000 for the faithful performance of all undertakings by the
22 applicant as represented in the application; the sufficiency of which
23 shall be subject to review by the director and approval by the board.

24 e. An undertaking to hold the board and all municipalities
25 served harmless from any liability arising out of the applicant's
26 operation and construction of its CATV system.

27 f. Evidence of sufficient insurance insuring the board, all
28 municipalities served and the applicant with respect to all liability
29 for any death, personal injury, property damage or other liability
30 arising out of the applicant's construction and operation of its
31 CATV system; the sufficiency of which shall be subject to review
32 by the director and approval by the board. Such insurance shall be
33 no less than: (1) \$150,000 for bodily injury or death to any one
34 person, within the limit, however, of \$500,000 for bodily injury or
35 death resulting from any one accident, (2) \$100,000 for property
36 damage resulting from any one accident, and (3) \$50,000 for all
37 other types of liability; the sufficiency of which shall be subject to
38 review by the director and approval by the board.

39 g. A schedule of proposed rates for cable television reception
40 service, which rates shall not be altered during the term for which
41 the municipal consent is issued, except by application to the board
42 for amendment of the terms and conditions of said consent after
43 public hearing, subject to the rules of the office, review by the
44 director and approval by the board, or amendment pursuant to the

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 provisions of subsection b. of section 11 of P.L.1972, c.186
2 (C.48:5A-11).

3 h. (1) With regard only to applications for a system-wide
4 franchise, a commitment as to those municipalities that are served
5 by a CATV company at the time of the application, to match or
6 surpass any line extension policy operative at the time the system-
7 wide franchise is granted and placed into effect prior to the
8 enactment of P.L.2006, c.83 (C.48:5A-25.1 et al.) by a local
9 franchise or certificate of approval, for the duration of the system-
10 wide franchise. In any event, the CATV company shall extend its
11 plant along public rights-of-way to all residences and businesses
12 within 150 aerial feet of the CATV company's existing plant at no
13 cost beyond the normal installation rate, and to all residences and
14 businesses within 100 underground feet of the CATV company's
15 plant at no cost beyond the normal installation rate, and shall set a
16 minimum house per mile density of not less than 35 homes per
17 square mile.

18 (2) This commitment shall be in addition to any and all board
19 orders and rules that impact upon the extension of plant, except that
20 such commitment shall supersede the board's regulations adopted as
21 N.J.A.C. 14:3-8.1 et seq., which shall not apply to CATV
22 companies, including telecommunications service providers that
23 have obtained a system-wide franchise.

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

39 j. With regard only to applications for a system-wide
40 franchise, a commitment to install and retain or provide, without
41 charge, one service outlet activated for basic service to any and all
42 fire stations, public schools, police stations, public libraries, and
43 other such buildings used for municipal purposes.

44 k. With regard only to applications for a system-wide
45 franchise, a commitment to provide free Internet service, without
46 charge, through one service outlet activated for basic service to any
47 and all fire stations, public schools, police stations, public libraries,
48 and other such buildings used for municipal purposes.

1 l. With regard only to applications for a system-wide
2 franchise, a commitment to provide equipment and training for
3 access users, without charge, on a schedule to be agreed upon
4 between the municipality and the CATV company.

5 m. With regard only to applications for a system-wide
6 franchise, a commitment to provide a return feed from any one
7 location in the municipality, without charge, to the CATV
8 company's headend or other location of interconnection to the cable
9 television system for public, educational or governmental use,
10 which return feed, at a minimum, provides the ability for the
11 municipality to cablecast live or taped access programming, in real
12 time, as may be applicable, to the CATV company's customers in
13 the municipality. No CATV company is responsible for providing a
14 return access feed unless a municipality requests such a feed in
15 writing. A CATV company that has interconnected with another
16 CATV company may require the second CATV company to pay for
17 half of the CATV company's absorbed costs for extension.

18 n. With regard only to applications for a system-wide
19 franchise, a commitment to meet any consumer protection
20 requirements applicable, pursuant to board regulations, to cable
21 television companies operating under certificates of approval.

22 o. (1) A commitment to provide CATV service to the entire
23 territory of a municipality, pursuant to subsection e. of section 23 of
24 P.L.1972, c.186 (C.48:5A-23), or to fully complete a system
25 capable of providing cable television service to all households
26 within the CATV company's service area, pursuant to subsection a.
27 of section 20 of P.L.2006, c.83 (C.48:5A-25.2), and, if applicable,
28 to provide notice to customers pursuant to 47 C.F.R. ss. 51.325-
29 51.335, and to provide at least broadband Internet service speed, as
30 defined in federal law, subject to reasonable network management,
31 before the CATV company may allow paid prioritization of Internet
32 network traffic to the franchise area. As used in this subsection,
33 "paid prioritization" means the management of a CATV company's
34 Internet service network speed to directly or indirectly favor certain
35 Internet network traffic over other Internet network traffic,
36 including, but not limited to, use of techniques such as Internet
37 network traffic shaping, prioritization, resource reservation, or other
38 forms of preferential Internet network traffic management, either in
39 exchange for consideration from a third party or to benefit an
40 affiliated entity.

41 (2) Nothing in this subsection shall prohibit a CATV company
42 from offering tiered Internet speed packages to customers prior to
43 fulfilling the commitments pursuant to paragraph (1) of this
44 subsection.

45 (cf: P.L.2006, c.83, s.23)

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47 2. This act shall take effect immediately.

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STATEMENT

This bill requires a cable television (CATV) company, in an application for municipal consent or a system-wide franchise, to commit to providing CATV service to the entire territory of a municipality or to all households within the CATV company's service territory, and to provide at least broadband Internet service speed, as defined in federal law, before the CATV company may allow paid prioritization of Internet network traffic to the franchise area. "Paid prioritization" is defined as the management of a CATV company's Internet service network speed to directly or indirectly favor certain Internet network traffic over other Internet network traffic, including, but not limited to, use of techniques such as Internet network traffic shaping, prioritization, resource reservation, or other forms of preferential Internet network traffic management, either in exchange for consideration from a third party or to benefit an affiliated entity.

Nothing in this bill is to prohibit a CATV company from offering tiered Internet speed packages to customers prior to fulfilling the commitments under the bill.

Current law allows the BPU to impose fines or revoke or suspend a CATV company's franchise for the failure of a CATV company to conform to the commitments made in a franchise application. Current law also allows the board to enforce the provisions of the application through any appropriate method.