

SB0037



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB0037

Introduced 1/15/2015, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

220 ILCS 5/21-601

Amends the Public Utilities Act. Provides that, in the 4 weeks before an election, any candidate for public office is entitled to 120 minutes of air time at no cost, available between 9 a.m. and 9 p.m., during any public, education, or government access programming aired in the jurisdiction that the candidate seeks to represent. Provides that the Illinois State Board of Elections shall adopt rules to enforce those provisions. Provides that the rules shall be made public and posted on the Illinois State Board of Elections' website. Provides that each cable operator shall publish rules of access and post them on its website Effective on January 1, 2016.

LRB099 00332 MGM 23709 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Section 21-601 as follows:

6 (220 ILCS 5/21-601)

7 (Section scheduled to be repealed on July 1, 2015)

8 Sec. 21-601. Public, education, and government access. For
9 the purposes of this Section, "programming" means content
10 produced or provided by any person, group, governmental agency,
11 or noncommercial public or private agency or organization.

12 (a) Not later than 90 days after a request by the local
13 unit of government or its designee that has received notice
14 under subsection (a) of Section 21-801 of this Act, the holder
15 shall (i) designate the same amount of capacity on its network
16 to provide for public, education, and government access use as
17 the incumbent cable operator is required to designate under its
18 franchise terms in effect with a local unit of government on
19 January 1, 2007 and (ii) retransmit to its subscribers the same
20 number of public, education, and government access channels as
21 the incumbent cable operator was retransmitting to subscribers
22 on January 1, 2007.

23 (b) If the local unit of government produces or maintains

1 the public education or government programming in a manner or
2 form that is compatible with the holder's network, it shall
3 transmit such programming to the holder in that form provided
4 that form permits the holder to satisfy the requirements of
5 subsection (c) of this Section. If the local unit of government
6 does not produce or maintain such programming in that manner or
7 form, then the holder shall be responsible for any changes in
8 the form of the transmission necessary to make public,
9 education, and government programming compatible with the
10 technology or protocol used by the holder to deliver services.
11 The holder shall receive programming from the local unit of
12 government (or the local unit of government's public,
13 education, and government programming providers) and transmit
14 that public, education, and government programming directly to
15 the holder's subscribers within the local unit of government's
16 jurisdiction at no cost to the local unit of government or the
17 public, education, and government programming providers. If
18 the holder is required to change the form of the transmission,
19 the local unit of government or its designee shall provide
20 reasonable access to the holder to allow the holder to transmit
21 the public, education, and government programming in an
22 economical manner subject to the requirements of subsection (c)
23 of this Section.

24 (c) The holder shall provide to subscribers public,
25 education, and government access channel capacity at
26 equivalent visual and audio quality and equivalent

1 functionality, from the viewing perspective of the subscriber,
2 to that of commercial channels carried on the holder's basic
3 cable or video service offerings or tiers without the need for
4 any equipment other than the equipment necessary to receive the
5 holder's basic cable or video service offerings or tiers.

6 (d) The holder and an incumbent cable operator shall
7 negotiate in good faith to interconnect their networks, if
8 needed, for the purpose of providing public, education, and
9 government programming. Interconnection may be accomplished by
10 direct cable, microwave link, satellite, or other reasonable
11 method of connection. The holder and the incumbent cable
12 operator shall provide interconnection of the public,
13 education, and government channels on reasonable terms and
14 conditions and may not withhold the interconnection. If a
15 holder and an incumbent cable operator cannot reach a mutually
16 acceptable interconnection agreement, the local unit of
17 government may require the incumbent cable operator to allow
18 the holder to interconnect its network with the incumbent cable
19 operator's network at a technically feasible point on their
20 networks. If no technically feasible point for interconnection
21 is available, the holder and an incumbent cable operator shall
22 each make an interconnection available to the public,
23 education, and government channel originators at their local
24 origination points and shall provide the facilities necessary
25 for the interconnection. The cost of any interconnection shall
26 be borne by the holder unless otherwise agreed to by the

1 parties. The interconnection required by this subsection shall
2 be completed within the 90-day deadline set forth in subsection
3 (a) of this Section.

4 (e) The public, education, and government channels shall be
5 for the exclusive use of the local unit of government or its
6 designee to provide public, education, and government
7 programming. The public, education, and government channels
8 shall be used only for noncommercial purposes. However,
9 advertising, underwriting, or sponsorship recognition may be
10 carried on the channels for the purpose of funding public,
11 education, and government access related activities.

12 (f) Public, education, and government channels shall all be
13 carried on the holder's basic cable or video service offerings
14 or tiers. To the extent feasible, the public, education, and
15 government channels shall not be separated numerically from
16 other channels carried on the holder's basic cable or video
17 service offerings or tiers, and the channel numbers for the
18 public, education, and government channels shall be the same
19 channel numbers used by the incumbent cable operator, unless
20 prohibited by federal law. After the initial designation of
21 public, education, and government channel numbers, the channel
22 numbers shall not be changed without the agreement of the local
23 unit of government or the entity to which the local unit of
24 government has assigned responsibility for managing public,
25 education, and government access channels, unless the change is
26 required by federal law. Each channel shall be capable of

1 carrying a National Television System Committee (NTSC)
2 television signal.

3 (g) The holder shall provide a listing of public,
4 education, and government channels on channel cards and menus
5 provided to subscribers in a manner equivalent to other
6 channels if the holder uses such cards and menus. Further, the
7 holder shall provide a listing of public, education, and
8 government programming on its electronic program guide if such
9 a guide is utilized by the holder. It is the public, education,
10 and government entity's responsibility to provide the holder or
11 its designated agent, as determined by the holder, with program
12 schedules and information in a timely manner.

13 (h) If less than 3 public, education, and government
14 channels are provided within the local unit of government as of
15 January 1, 2007, a local unit of government whose jurisdiction
16 lies within the authorized service area of the holder may
17 initially request the holder to designate sufficient capacity
18 for up to 3 public, education, and government channels. A local
19 unit of government or its designee that seeks to add additional
20 capacity shall give the holder a written notification
21 specifying the number of additional channels to be used,
22 specifying the number of channels in actual use, and verifying
23 that the additional channels requested will be put into actual
24 use.

25 (i) The holder shall, within 90 days of a request by the
26 local unit of government or its designated public, education,

1 or government access entity, provide sufficient capacity for an
2 additional channel for public, education, and government
3 access when the programming on a given access channel exceeds
4 40 hours per week as measured on a quarterly basis. The
5 additional channel shall not be used for any purpose other than
6 for carrying additional public, education, or government
7 access programming.

8 (j) Except as provided in subsection (m) of this Section,
9 the ~~the~~ public, education, and government access programmer is
10 solely responsible for the content that it provides over
11 designated public, education, or government channels. A holder
12 shall not exercise any editorial control over any programming
13 on any channel designed for public, education, or government
14 use or on any other channel required by law or a binding
15 agreement with the local unit of government.

16 (k) A holder shall not be subject to any civil or criminal
17 liability for any program carried on any channel designated for
18 public, education, or government use.

19 (l) A court of competent jurisdiction shall have exclusive
20 jurisdiction to enforce any requirement under this Section or
21 resolve any dispute regarding the requirements set forth in
22 this Section, and no provider of cable service or video service
23 may be barred from providing service or be required to
24 terminate service as a result of that dispute or enforcement
25 action.

26 (m) In the 4 weeks before an election, any candidate for

1 public office is entitled to 120 minutes of air time at no
2 cost, available between 9 a.m. and 9 p.m., during any public,
3 education, or government access programming aired in the
4 jurisdiction that the candidate seeks to represent. Cable
5 operators shall guarantee that any candidate requesting this
6 air time is provided that opportunity as practicable.

7 (n) The Illinois State Board of Elections shall adopt rules
8 to enforce the provisions of subsection (m). Those rules shall
9 be made public and posted on the Illinois State Board of
10 Elections' website. Each cable operator shall publish rules of
11 access and post them on its website.

12 (Source: P.A. 95-9, eff. 6-30-07; 95-876, eff. 8-21-08.)

13 Section 99. Effective date. This Act takes effect January
14 1, 2016.