

114TH CONGRESS  
1ST SESSION

# S. 1244

To amend the Communications Act of 1934 to establish signal quality and content requirements for the carriage of public, educational, and governmental channels, to preserve support of such channels, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 7, 2015

Ms. BALDWIN (for herself and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Communications Act of 1934 to establish signal quality and content requirements for the carriage of public, educational, and governmental channels, to preserve support of such channels, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Access  
5 Preservation Act”.

1 **SEC. 2. PEG SIGNAL QUALITY AND CONTENT; PRESERVA-**  
 2 **TION OF SUPPORT OF PEG USE.**

3 (a) IN GENERAL.—Section 611 of the Communica-  
 4 tions Act of 1934 (47 U.S.C. 531) is amended—

5 (1) by redesignating subsection (f) as sub-  
 6 section (h); and

7 (2) by inserting after subsection (e) the fol-  
 8 lowing:

9 “(f) SIGNAL QUALITY AND CONTENT.—

10 “(1) IN GENERAL.—A cable operator that oper-  
 11 ates a cable system with channel capacity designated  
 12 under subsection (b) or that is required to provide  
 13 channel capacity under subsection (g)(6) shall, with  
 14 respect to such channel capacity—

15 “(A) carry signals for public, educational,  
 16 or governmental use from the point of origin of  
 17 such signals to subscribers without material  
 18 degradation and without altering or removing  
 19 content or data provided as part of the public,  
 20 educational, or governmental use;

21 “(B) provide such signals to, and make  
 22 such signals viewable by, every subscriber of the  
 23 cable system without additional service or  
 24 equipment charges;

25 “(C) provide to the appropriate local gov-  
 26 ernment subdivision, free of charge, any trans-

1 mission services and the use of any trans-  
2 mission facilities that are necessary to meet the  
3 requirements of subparagraph (A);

4 “(D) upon request by the appropriate local  
5 government subdivision, provide, not later than  
6 180 days after the date of the request, for the  
7 transmission of such signals in—

8 “(i) high definition format; or

9 “(ii) the highest quality format that is  
10 provided by a majority of local television  
11 broadcast stations in the applicable des-  
12 ignated market area, if the quality of that  
13 format is better than high definition; and

14 “(E) upon request by the appropriate local  
15 government subdivision, provide, not later than  
16 180 days after the date of the request, the abil-  
17 ity for the programming schedules of such sig-  
18 nals to be present and updated on the electronic  
19 program guide of the cable operator in the  
20 same manner and with the same functionality  
21 as television broadcast stations in the applicable  
22 designated market area—

23 “(i) through the cable operator di-  
24 rectly; or

1                   “(ii) by the cable operator facilitating  
 2                   the inclusion of the programming schedules  
 3                   through a third party vendor, at a rate not  
 4                   to exceed the actual incremental cost of the  
 5                   inclusion.

6                   “(2) RULE OF CONSTRUCTION.—Nothing in  
 7                   paragraph (1)(D) shall be construed to—

8                   “(A) remove other obligations of a cable  
 9                   operator that are not specified under this Act;

10                   “(B) require a cable operator to upgrade  
 11                   the quality of a signal to comply with para-  
 12                   graph (1)(D) if the appropriate local govern-  
 13                   ment subdivision determines that it is not capa-  
 14                   ble of producing and transmitting programming  
 15                   in the required format; or

16                   “(C) prohibit a cable operator from volun-  
 17                   tarily upgrading the quality of a signal to com-  
 18                   ply with paragraph (1)(D).

19                   “(3) ENFORCEMENT.—The requirements of this  
 20                   subsection may be enforced by—

21                   “(A) a local government subdivision; or

22                   “(B) a State.

23                   “(g) PRESERVATION OF SUPPORT OF PUBLIC, EDU-  
 24                   CATIONAL, AND GOVERNMENTAL USE.—

1           “(1) LEVEL OF SUPPORT REQUIRED.—In a  
2 State that adopts legislation affecting cable system  
3 franchising requirements relating to support for  
4 public, educational, or governmental use of a cable  
5 system that becomes effective after May 31, 2005,  
6 notwithstanding such legislation, a cable operator  
7 owes to any local government subdivision in which  
8 the operator provides cable service during a year be-  
9 ginning after the date of enactment of this sub-  
10 section an amount for such year to be determined by  
11 the local government subdivision, but not to exceed  
12 the greatest of the following:

13           “(A) The amount of support provided in  
14 the last calendar year ending before the effec-  
15 tive date of such State legislation.

16           “(B) The average annual amount of sup-  
17 port provided over the term of the franchise  
18 under which the cable operator was operating  
19 on the day before the effective date of such  
20 State legislation.

21           “(C) The amount of support that the cable  
22 operator is required to provide to such local  
23 government subdivision under such State legis-  
24 lation during the year involved.

1           “(D) An amount of support equal to 2 per-  
2           cent of the gross revenues of the cable operator  
3           from the operation of the cable system to pro-  
4           vide cable services in such local government  
5           subdivision during the year involved.

6           “(2) FORMS OF SUPPORT.—For purposes of  
7           paragraph (1), support for public, educational, or  
8           governmental use of a cable system means all cash  
9           payments, in-kind support, and free services that the  
10          operator of the cable system, or its predecessor, pro-  
11          vides to the local government subdivision for such  
12          use of the cable system.

13          “(3) ADJUSTMENT FOR INFLATION.—For a  
14          year beginning on or after the effective date de-  
15          scribed in subparagraphs (A) and (B) of paragraph  
16          (1), on the date that the Gross National Product  
17          Price Index is first published by the Bureau of Eco-  
18          nomic Analysis after the end of June of such year,  
19          the amounts specified in such subparagraphs shall  
20          be increased by the percentage increase, if any, in  
21          the Index published on such date from the Index  
22          first published after the end of June of the pre-  
23          ceding year.

24          “(4) CASH PAYMENTS.—A cable operator that  
25          owes amounts under paragraph (1) shall, beginning

1 not later than 30 days after the date of enactment  
2 of this subsection, pay such amounts in cash—

3 “(A) in accordance with the schedule for  
4 payment of franchise fees, communications  
5 taxes, or other similar assessments under any  
6 applicable franchise; or

7 “(B) if there is no payment schedule for  
8 such assessments under an applicable franchise,  
9 in accordance with the most frequent payment  
10 schedule for such assessments under applicable  
11 State or local law.

12 “(5) USES; DISPUTES.—

13 “(A) USES.—Support provided to any local  
14 government subdivision under this subsection  
15 shall be dedicated to public, educational, or gov-  
16 ernmental use of channel capacity.

17 “(B) DISPUTES.—

18 “(i) MEDIATION.—If there is a dis-  
19 pute as to amounts owed under this sub-  
20 section, undisputed amounts shall be paid  
21 to the local government subdivision, dis-  
22 puted amounts shall be paid into an escrow  
23 account, and the parties shall submit to  
24 nonbinding mediation.

1                   “(ii) COURT PROCEEDINGS.—If the  
2                   dispute cannot be settled using mediation,  
3                   either party may seek relief from a court  
4                   of competent jurisdiction.

5                   “(6) CHANNELS.—In a State that adopts legis-  
6                   lation affecting cable system franchising require-  
7                   ments relating to the number of channels for public,  
8                   educational, or governmental use of a cable system  
9                   that becomes effective after May 31, 2005, a cable  
10                  operator shall, notwithstanding such legislation, pro-  
11                  vide in a local government subdivision at least the  
12                  greater of the following number of channels for such  
13                  use:

14                   “(A) The number of channels for such use  
15                   that the operator was providing in the local gov-  
16                   ernment subdivision on the day before the effec-  
17                   tive date of such State legislation.

18                   “(B) If the operator provided fewer than 3  
19                   channels for such use in the local government  
20                   subdivision on the day before the effective date  
21                   of such State legislation, a number specified by  
22                   the local government subdivision, but not to ex-  
23                   ceed 3.

24                   “(7) ENFORCEMENT.—The requirements of this  
25                   subsection may be enforced by—

1           “(A) a local government subdivision; or

2           “(B) a State.”.

3       (b) DEFINITIONS.—

4           (1) CABLE SERVICE.—Section 602(6) of the  
5       Communications Act of 1934 (47 U.S.C. 522(6)) is  
6       amended by striking “means” and inserting “means,  
7       regardless of the technology or transmission protocol  
8       used in the provision of service”.

9           (2) LOCAL GOVERNMENT SUBDIVISION.—Sec-  
10       tion 602 of the Communications Act of 1934 (47  
11       U.S.C. 522) is amended—

12           (A) by redesignating paragraphs (13)  
13       through (20) as paragraphs (14) through (21),  
14       respectively; and

15           (B) by inserting after paragraph (12) the  
16       following:

17           “(13) the term ‘local government subdivision’  
18       means—

19           “(A) except as provided in subparagraph  
20       (B), a franchising authority that derives its  
21       power to grant a franchise from State or local  
22       law; and

23           “(B) in a State that adopts legislation af-  
24       fecting cable system franchising requirements  
25       relating to support for public, educational, or

1 governmental use of a cable system that be-  
2 comes effective after May 31, 2005, an entity  
3 that was considered a franchising authority de-  
4 riving its power to grant a franchise from State  
5 or local law as of the day before the effective  
6 date of such State legislation;”.

7 (3) FRANCHISE FEE.—Section 622(g)(2) of the  
8 Communications Act of 1934 (47 U.S.C. 542(g)(2))  
9 is amended—

10 (A) in subparagraph (B), by striking “in  
11 the case of any franchise in effect on the date  
12 of enactment of this title,”;

13 (B) by striking subparagraph (C); and

14 (C) by redesignating subparagraphs (D)  
15 and (E) as subparagraphs (C) and (D), respec-  
16 tively.

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