



Rep. Patrick J Verschoore

Filed: 5/13/2008

09500HB2074ham003

LRB095 01542 MJR 50816 a

1 AMENDMENT TO HOUSE BILL 2074

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2074 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by adding  
5 Sections 13-905 and 13-905.5 and by changing Section 21-1101 as  
6 follows:

7 (220 ILCS 5/13-905 new)

8 Sec. 13-905. Mandatory overtime by telecommunications  
9 carrier employees.

10 (a) A telecommunications carrier must maintain staffing  
11 levels, as they existed on January 1, 2005, for employees who  
12 maintain and repair all types of telecommunications access  
13 facilities, including cable and auxiliary equipment.

14 (b) A telecommunications carrier shall not require  
15 mandatory overtime if staffing levels fall below levels  
16 specified in subsection (a) of this Section, except in the case

1 of catastrophic events, such as a natural disaster or emergency  
2 situation declared by the State.

3 (c) If a telecommunications carrier believes that an  
4 emergency exists and that it must require mandatory overtime,  
5 then the telecommunications carrier must provide written  
6 notice to the Commission within 5 days after requiring the  
7 mandatory overtime, detailing (i) the reason for the mandatory  
8 overtime, (ii) the number of employees required to work  
9 overtime, and (iii) the length or projected length of time that  
10 overtime work was or is necessary. The telecommunications  
11 carrier must also file notice with the Commission within 5 days  
12 after completing mandatory overtime.

13 (d) If a telecommunications carrier violates this Section  
14 by either failing to file notice with the Commission or by  
15 failing to comply with subsection (a) of this Section and  
16 requires mandatory overtime without necessity, then the  
17 telecommunications carrier must pay a \$10,000 fine to the  
18 Commission for each employee that worked mandatory overtime in  
19 violation of this Section.

20 (220 ILCS 5/13-905.5 new)

21 Sec. 13-905.5. Employee meetings; employer's opinion  
22 prohibited.

23 (a) For purposes of this Section:

24 "Employee" means any person engaged in service to an  
25 employer, as that term is defined in this Section.

1       "Employer" means a holder or incumbent cable operator, as  
2 those terms are defined in Section 21-201 of this Act.

3       "Labor organization" means any organization that exists  
4 for the purpose, in whole or in part, of collective bargaining  
5 or of dealing with employers concerning grievances, terms or  
6 conditions of employment, or of other mutual aid or protection  
7 in connection with employment.

8       (b) An employer shall not require an employee to attend a  
9 meeting of which the primary purpose is to communicate the  
10 employer's opinion concerning labor organizations.

11       (220 ILCS 5/21-1101)

12       (Section scheduled to be repealed on October 1, 2013)

13       Sec. 21-1101. Requirements to provide video services.

14       (a) The holder of a State-issued authorization shall not  
15 deny access to cable service or video service to any potential  
16 residential subscribers because of the race or income of the  
17 residents in the local area in which the potential subscribers  
18 reside.

19       (b) (1) If the holder is using telecommunications  
20 facilities to provide cable or video service and has 1,000,000  
21 or less telecommunications access lines in this State, but more  
22 than 300,000 telecommunications access lines in this State, the  
23 holder shall provide: ~~(1) Provide~~ access to its cable or video  
24 service to a number of households equal to at least 25% of its  
25 telecommunications access lines in this State within 3 years

1 after the date a holder receives a State-issued authorization  
2 from the Commission and to a number not less than 35% of these  
3 households within 5 years after the date a holder receives a  
4 State-issued authorization from the Commission; provided,~~7~~  
5 ~~however,~~ that the holder of a State-issued authorization is not  
6 required to meet the 35% requirement in this paragraph (1)  
7 ~~subsection~~ until 2 years after at least 15% of the households  
8 with access to the holder's video service subscribe to the  
9 service for 6 consecutive months. The holder's obligation to  
10 provide such access in the State shall be distributed, as the  
11 holder determines, within 3 ~~three~~ different designated market  
12 areas.

13 (2) Within 3 years after the date a holder receives a  
14 State-issued authorization from the Commission, at least  
15 30% of the total households with access to the holder's  
16 cable or video service shall be low-income.

17 Within each designated market area identified in  
18 paragraph (1) of this subsection (b) ~~(b) (1)~~, the holder's  
19 obligation to offer service to low-income households shall  
20 be measured by each exchange, as that term is defined in  
21 Section 13-206 of this ~~the Public Utilities~~ Act, in which  
22 the holder chooses to provide cable or video service. The  
23 holder is under no obligation to serve or provide access to  
24 an entire exchange; however, in addition to the statewide  
25 obligation to provide low-income access provided by this  
26 Section, in each exchange in which the holder chooses to

1 provide cable or video service, the holder shall provide  
2 access to a percentage of low-income households that is at  
3 least equal to the percentage of the total low-income  
4 households within that exchange.

5 (3) The number of telecommunication access lines in  
6 this Section shall be based on the number of access lines  
7 that exist as of June 30, 2007 (the effective date of  
8 Public Act 95-9) ~~this amendatory Act of the 95th General~~  
9 ~~Assembly.~~

10 A holder of a State-issued authorization shall provide the  
11 Commission with a service area footprint, as defined in  
12 subsection (j) of Section 21-201 of this Article, or a list of  
13 municipalities included in the service area footprint within 60  
14 days after receiving authorization or 60 days after the  
15 effective date of this amendatory Act of the 95th General  
16 Assembly, whichever is later. The information shall also be  
17 provided to the public. If a holder of a State-issued  
18 authorization deems the footprint to be proprietary  
19 information or refuses to disclose a footprint or list of  
20 municipalities, then the holder shall provide access to its  
21 cable or video service to a number of households equal to at  
22 least 50% of the households in the holder's telecommunications  
23 service area in the State within 3 years after the date the  
24 holder receives a State-issued authorization from the  
25 Commission and to a number not less than 65% of these  
26 households within 5 years after the date the holder receives a

1 State-issued authorization from the Commission; provided,  
2 however, that the holder of a State-issued authorization is not  
3 required to meet the 65% requirement in subsection (c) of this  
4 Section until 2 years after at least 15% of the households with  
5 access to the holder's video service subscribe to the service  
6 for 6 consecutive months.

7 (c) (1) If the holder of a State-issued authorization is  
8 using telecommunications facilities to provide cable or video  
9 service and has more than 1,000,000 telecommunications access  
10 lines in this State, the holder shall provide: ~~(1) (A) Provide~~  
11 access to its cable or video service to a number of households  
12 equal to at least 35% of the households in the holder's  
13 telecommunications service area in the State within 3 years  
14 after the date a holder receives a State-issued authorization  
15 from the Commission and to a number not less than 50% of these  
16 households within 5 years after the date a holder receives a  
17 State-issued authorization from the Commission; provided,~~7~~  
18 ~~however,~~ that the holder of a State-issued authorization is not  
19 required to meet the 50% requirement in this paragraph (1)  
20 ~~subsection~~ until 2 years after at least 15% of the households  
21 with access to the holder's video service subscribe to the  
22 service for 6 consecutive months.

23 The holder's obligation to provide such access in the State  
24 shall be distributed, as the holder determines, within 3 ~~three~~  
25 designated market areas, one in each of the northeastern,  
26 central, and southwestern portions of the holder's

1 telecommunications service area in the State. The designated  
2 market area for the northeastern portion shall consist of 2 ~~two~~  
3 separate and distinct reporting areas: (i) a city with more  
4 than 1,000,000 inhabitants, and (ii) all other local units of  
5 government on a combined basis within such designated market  
6 area in which it offers video service. A holder of a  
7 State-issued authorization shall provide the Commission with a  
8 service area footprint, as defined in subsection (j) of Section  
9 21-201 of this Article, or a list of municipalities included in  
10 the service area footprint within 60 days after receiving  
11 authorization or 60 days after the effective date of this  
12 amendatory Act of the 95th General Assembly. The information  
13 shall also be provided to the public. If a holder of a  
14 State-issued authorization deems the footprint to be  
15 proprietary information or refuses to disclose a footprint or  
16 list of municipalities, then the holder shall provide access to  
17 its cable or video service to a number of households equal to  
18 at least 50% of the households in the holder's  
19 telecommunications service area in the State within 3 years  
20 after the date the holder receives a State-issued authorization  
21 from the Commission and to a number not less than 65% of these  
22 households within 5 years after the date the holder receives a  
23 State-issued authorization from the Commission; provided,  
24 however, that the holder of a State-issued authorization is not  
25 required to meet the 65% requirement in this subsection (c)  
26 until 2 years after at least 15% of the households with access

1 to the holder's video service subscribe to the service for 6  
2 consecutive months.

3 ~~(B)~~ If any state, in which a holder subject to this  
4 subsection (c) or one of its affiliates provides or seeks to  
5 provide cable or video service, adopts a law permitting  
6 state-issued authorization or statewide franchises to provide  
7 cable or video service that requires a cable or video provider  
8 to offer service to more than 35% of the households in the  
9 cable or video provider's service area in that state within 3  
10 years, holders subject to this subsection (c) shall provide  
11 service in this State to the same percentage of households  
12 within 3 years of adoption of such law in that state.

13 Furthermore, if any state, in which a holder subject to  
14 this subsection (c) or one of its affiliates provides or seeks  
15 to provide cable or video service, adopts a law requiring a  
16 holder of a state-issued authorization or statewide franchises  
17 to offer cable or video service to more than 35% of its  
18 households if less than 15% of the households with access to  
19 the holder's video service subscribe to the service for 6  
20 consecutive months, then as a precondition to further  
21 build-out, holders subject to this subsection (c) shall be  
22 subject to the same percentage of service subscription in  
23 meeting its obligation to provide service to 50% of the  
24 households in this State.

25 (2) Within 3 years after the date a holder receives a  
26 State-issued authorization from the Commission, at least



1 30% of the total households with access to the holder's  
2 cable or video service shall be low-income.

3 Within each designated market area listed in paragraph  
4 (1) of this subsection (c) ~~(e)(1)~~, the holder's obligation  
5 to offer service to low-income households shall be measured  
6 by each exchange, as that term is defined in Section 13-206  
7 of this ~~the Public Utilities~~ Act in which the holder  
8 chooses to provide cable or video service. The holder is  
9 under no obligation to serve or provide access to an entire  
10 exchange; however, in addition to the statewide obligation  
11 to provide low-income access provided by this Section, in  
12 each exchange in which the holder chooses to provide cable  
13 or video service, the holder shall provide access to a  
14 percentage of low-income households that is at least equal  
15 to the percentage of the total low-income households within  
16 that exchange.

17 (d) (1) All other holders shall only provide access to one  
18 or more exchanges, as that term is defined in Section 13-206 of  
19 this ~~the Public Utilities~~ Act, or to local units of government  
20 and shall provide access to their cable or video service to a  
21 number of households equal to 35% of the households in the  
22 exchange or local unit of government within 3 years after the  
23 date a holder receives a State-issued authorization from the  
24 Commission and to a number not less than 50% of these  
25 households within 5 years after the date a holder receives a  
26 State-issued authorization from the Commission, provided,

1 ~~however,~~ that if the holder is an incumbent cable operator or  
2 any successor-in-interest company, it shall be obligated to  
3 provide access to cable or video services within the  
4 jurisdiction of a local unit of government at the same levels  
5 required by the local franchising authorities for that local  
6 unit of government on June 30, 2007 (the effective date of  
7 Public Act 95-9) ~~this amendatory Act of the 95th General~~  
8 ~~Assembly.~~

9 (2) Within 3 years after the date a holder receives a  
10 State-issued authorization from the Commission, at least  
11 30% of the total households with access to the holder's  
12 cable or video service shall be low-income.

13 Within each designated exchange, as that term is  
14 defined in Section 13-206 of this ~~the Public Utilities Act,~~  
15 or local unit of government listed in paragraph (1) of this  
16 subsection (d) ~~(d)(1)~~, the holder's obligation to offer  
17 service to low-income households shall be measured by each  
18 exchange or local unit of government in which the holder  
19 chooses to provide cable or video service. Except as  
20 provided in paragraph (1) of this subsection (d) ~~(d)(1)~~,  
21 the holder is under no obligation to serve or provide  
22 access to an entire exchange or local unit of government;  
23 however, in addition to the statewide obligation to provide  
24 low-income access provided by this Section, in each  
25 exchange or local unit of government in which the holder  
26 chooses to provide cable or video service, the holder shall

1 provide access to a percentage of low-income households  
2 that is at least equal to the percentage of the total  
3 low-income households within that exchange or local unit of  
4 government.

5 A holder of a State-issued authorization shall provide  
6 the Commission with a service area footprint, as defined in  
7 subsection (j) of Section 21-201 of this Article, or a list  
8 of municipalities included in the service area footprint  
9 within 60 days after receiving authorization or 60 days  
10 after the effective date of this amendatory Act of the 95th  
11 General Assembly. The information shall also be provided to  
12 the public. If a holder of a State-issued authorization  
13 deems the footprint to be proprietary information or  
14 refuses to disclose a footprint or list of municipalities,  
15 then the holder shall provide access to its cable or video  
16 service to a number of households equal to at least 50% of  
17 the households in the holder's telecommunications service  
18 area in the State within 3 years after the date the holder  
19 receives a State-issued authorization from the Commission  
20 and to a number not less than 65% of these households  
21 within 5 years after the date the holder receives a  
22 State-issued authorization from the Commission; provided,  
23 however, that the holder of a State-issued authorization is  
24 not required to meet the 65% requirement in subsection (c)  
25 of this Section until 2 years after at least 15% of the  
26 households with access to the holder's video service

1           subscribe to the service for 6 consecutive months.

2           (e) A holder subject to subsection (c) of this Section  
3 ~~21-1101(e)~~ shall provide wireline broadband service, defined  
4 as wireline service, capable of supporting, in at least one  
5 direction, a speed in excess of 200 kilobits per second (kbps),  
6 to the network demarcation point at the subscriber's premises,  
7 to a number of households equal to 90% of the households in the  
8 holder's telecommunications service area by December 31, 2008,  
9 or shall pay within 30 days of December 31, 2008 a sum of  
10 \$15,000,000 to the Digital Divide Elimination Infrastructure  
11 Fund established pursuant to Section 13-301.3 ~~of Article XIII~~  
12 of this Act, or any successor fund established by the General  
13 Assembly. In that event the holder is required to make a  
14 payment pursuant to this subsection (e), the holder shall have  
15 no further accounting for this payment, which shall be used in  
16 any part of the State for the purposes established in the  
17 Digital Divide Elimination Infrastructure Fund or for  
18 broadband deployment.

19           (f) The holder of a State-issued authorization may satisfy  
20 the requirements of subsections (b), (c), and (d) of this  
21 Section through the use of any technology, which shall not  
22 include direct-to-home satellite service, that offers service,  
23 functionality, and content that, ~~which~~ is demonstrably similar  
24 to that provided through the holder's video service system.

25           (g) In any investigation into or complaint alleging that  
26 the holder of a State-issued authorization has failed to meet

1 the requirements of this Section, the following factors may be  
2 considered in justification or mitigation or as justification  
3 for an extension of time to meet the requirements of  
4 subsections (b), (c), and (d) of this Section:

5 (1) The inability to obtain access to public and  
6 private rights-of-way under reasonable terms and  
7 conditions.

8 (2) Barriers to competition arising from existing  
9 exclusive service arrangements in developments or  
10 buildings.

11 (3) The inability to access developments or buildings  
12 using reasonable technical solutions under commercially  
13 reasonable terms and conditions.

14 (4) Natural disasters.

15 (5) Other factors beyond the control of the holder.

16 (h) If the holder relies on the factors identified in  
17 subsection (g) of this Section in response to an investigation  
18 or complaint, the holder shall demonstrate the following:

19 (1) what substantial effort the holder of a  
20 State-issued authorization has taken to meet the  
21 requirements of subsection ~~subsections~~ (a), (b), and (c) of  
22 this Section;

23 (2) which portions of subsection (g) of this Section  
24 apply; and

25 (3) the number of days it has been delayed or the  
26 requirements it cannot perform as a consequence of

1 subsection (g) of this Section.

2 (i) The factors in subsection (g) of this Section may be  
3 considered by the Attorney General or by a court of competent  
4 jurisdiction in determining whether the holder is in violation  
5 of this Article.

6 (j) Every holder of a State-issued authorization, no later  
7 than April 1, 2009, and annually no later than April 1  
8 thereafter, shall report to the Commission for each of the  
9 service areas as described in subsections (b), (c), and (d) of  
10 this Section in which it provides access to its video service  
11 in the State, the following information:

12 (1) Cable service and video service information:

13 (A) The number of households in the holder's  
14 telecommunications service area within each designated  
15 market area as described in subsections (b) and (c) of  
16 this Section or exchange or local unit of government as  
17 described in subsection (d) of this Section in which it  
18 offers video service.

19 (B) The number of households in the holder's  
20 telecommunications service area within each designated  
21 market area as described in subsections (b) and (c) of  
22 this Section or exchange or local unit of government as  
23 described in subsection (d) of this Section that are  
24 offered access to video service by the holder.

25 (C) The number of households in the holder's  
26 telecommunications service area in the State.

1 (D) The number of households in the holder's  
2 telecommunications service area in the State that are  
3 offered access to video service by the holder.

4 (2) Low-income household information:

5 (A) The number of low-income households in the  
6 holder's telecommunications service area within each  
7 designated market area as described in subsections (b)  
8 and (c) of this Section, as further identified in terms  
9 of exchanges, or exchange or local unit of government  
10 as described in subsection (d) of this Section, in  
11 which it offers video service.

12 (B) The number of low-income households in the  
13 holder's telecommunications service area within each  
14 designated market area as described in subsections (b)  
15 and (c) of this Section, as further identified in terms  
16 of exchanges, or exchange or local unit of government  
17 as described in subsection (d) of this Section in the  
18 State, that are offered access to video service by the  
19 holder.

20 (C) The number of low-income households in the  
21 holder's telecommunications service area in the State.

22 (D) The number of low-income households in the  
23 holder's telecommunications service area in the State  
24 that are offered access to video service by the holder.

25 (k) The Commission, within 30 days of receiving the first  
26 report from holders under this Section, and annually no later

1 than July 1 thereafter, shall submit to the General Assembly a  
2 report that includes, based on year-end data, the information  
3 submitted by holders pursuant to subdivisions (1) and (2) of  
4 subsection (j) ~~subsections (j)(1) and (j)(2)~~ of this Section.  
5 The Commission shall make this report available to any member  
6 of the public or any local unit of government upon request. All  
7 information submitted to the Commission and designated by  
8 holders as confidential and proprietary shall be subject to the  
9 disclosure provisions in subsection (c) of Section 21-401 of  
10 this Act ~~21-401(e)~~. No individually identifiable customer  
11 information shall be subject to public disclosure.

12 (Source: P.A. 95-9, eff. 6-30-07; revised 7-9-07.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law."