

2022 Regular Session

HOUSE BILL NO. 276

BY REPRESENTATIVE BISHOP

TELECOMMUNICATIONS: Provides relative to franchise fee audits and dispute resolution of certain video service providers

1 AN ACT

2 To amend and reenact R.S. 45:1363(introductory paragraph) and (14) and 1367(A), (B), and
3 (C), relative to franchise fees associated with video services; to provide a definition
4 for video service; to provide for franchise fee audits by the secretary of state; to
5 provide for dispute resolutions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 45:1363(introductory paragraph) and (14) and 1367(A), (B), and (C)
8 are hereby amended and reenacted to read as follows:

9 §1363. Definitions

10 ~~When~~ As used in this Chapter, the following terms have the following
11 meanings:

12 * * *

13 (14) "Video service" means video programming services provided through
14 wireline facilities located at least in part in the public rights of way without regard
15 to delivery technology, including Internet protocol technology. "Video service" shall
16 not include any video programming provided by a any of the following:

- 17 (a) A commercial mobile service provider as defined in this Section.
- 18 (b) A direct broadcast satellite service as defined in 47 U.S.C. 335(b)(5)(A).
- 19 (c) ~~or video programming provided as part of a service that enables users to~~
20 ~~access content, information, e-mail, or other services offered over the public Internet.~~

1 A provider of digital audiovisual works delivered over the Internet, including
2 streaming content.

3 * * *

4 §1367. Franchise fee audits and dispute resolution

5 A. The ~~local governmental subdivision~~ secretary of state, upon reasonable
6 written request, may review the business records of a cable service provider or video
7 service provider to the extent necessary to ensure payment of the franchise fee in
8 accordance with R.S. 45:1366.

9 B. Any suit with respect to a dispute arising out of or relating to the amount
10 of the franchise fee due to a local governmental subdivision under R.S. 45:1366 shall
11 be filed either by the secretary of state on behalf of the local governmental
12 subdivision seeking to recover an additional amount alleged to be due, or by the
13 certificate holder seeking a refund of an alleged overpayment, in a state or federal
14 court of competent jurisdiction within three years following the end of the month to
15 which the disputed amount relates; however, this time period may be extended by
16 written agreement between the certificate holder and the ~~local governmental~~
17 ~~subdivision~~ secretary of state.

18 C. Prior to filing suit, the ~~local governmental subdivision~~ secretary of state
19 or certificate holder shall give the other party written notice of any dispute not
20 resolved in the normal course of business. Representatives of both parties, with
21 authority to settle the dispute, shall meet within thirty calendar days after receipt of
22 the notice, and thereafter as often as reasonably deemed necessary, to exchange
23 relevant information and attempt to resolve the dispute. If the dispute is not resolved
24 within sixty calendar days after receipt of the notice, either the ~~local governmental~~
25 ~~subdivision~~ secretary of state or certificate holder may initiate nonbinding mediation.
26 Good faith participation in and completion of the negotiation and mediation
27 procedures set forth in this Subsection shall be a condition precedent to proceeding

1 with the suit beyond its filing to interrupt the prescriptive period set forth in this
2 Section.

3 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 276 Original

2022 Regular Session

Bishop

Abstract: Provides for the secretary of state to conduct franchise fee audits and dispute resolutions and exempts certain video programming from the definition of video service.

Present law exempts video programming by a commercial mobile service provider or provided by a service enabling users to access information over the Internet from the definition of "video service".

Proposed law exempts direct broadcast satellite service as defined by federal law and providers of audio and video content, including streaming content, from the present law definition of "video service" and removes the exemption for video programming provided by a service enabling users to access information over the Internet from that present law definition.

Present law provides local governmental subdivisions the ability to review business records of a cable service provider or video service provider to the extent necessary to ensure payment of fees.

Present law requires that any suit relating to the amount of the franchise fee to be filed in a state or federal court of competent jurisdiction within three years following the end of the month to which the dispute arises.

Present law requires the local governmental subdivision to give written notice of any dispute prior to filing suit, and requires both parties to meet within 30 days to attempt to settle the dispute. Present law further authorizes the local governmental subdivision to pursue nonbinding mediation if the dispute is not resolved within 60 days.

Proposed law retains present law but changes the entity able to audit, file suit, and resolve disputes relating to franchise fee payments from the local governmental subdivision to the secretary of state.

(Amends R.S. 45:1363(intro. para.) and (14) and 1367(A), (B), and (C))