

AMENDED IN ASSEMBLY APRIL 19, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1104

Introduced by Assembly Member Levine

February 22, 2005

~~An act to add Article 6 (commencing with Section 8290) to Chapter 7 of Division 4 of the Public Utilities Code, relating to utility charges. An act to amend Section 53088.2 of the Government Code, relating to video providers.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1104, as amended, Levine. ~~Utility charges: utility and cable~~ *Video provider* billing practices.

The existing Video Customer Service Act requires all video providers, as defined, to render bills that are accurate and understandable and to provide a minimum of 30 days' written notice before increasing rates or deleting channels.

This bill would require that a video provider cease billing a customer for additional services within 7 business days of receiving a request to terminate service. The bill would provide that if the customer requests that service be terminated and provides 7 or more business days notice before the date for termination of service, the video provider would be required to cease billing the customer for additional services as of midnight of the last day of service.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, gas corporations, telephone corporations, and water corporations. Existing law authorizes the commission to fix the rates and charges for every~~

~~public utility, and requires that those rates and charges be just and reasonable. Existing law authorizes the commission, after a hearing, to require every public utility to construct, maintain, and operate utility facilities in a manner so as to promote and safeguard the health and safety of its employees, customers, and the public. Existing law additionally authorizes the commission, after a hearing, to require every cable television corporation to construct, maintain, and operate utility facilities in a manner so as to promote and safeguard the health and safety of its employees, customers, and the public.~~

~~This bill would require that every utility, for which the commission has not adopted a general rule or order, or approved a tariff, specifying the just and reasonable charges that may be made by the utility when the customer discontinues service, including electrical corporations, gas corporations, telephone corporations, telecommunications carriers as defined under federal law, water corporations, cable television corporations, and cable operators as defined under federal law, cease billing a customer for additional services within 7 business days of receiving a request to immediately discontinue service. The bill would require that where the customer requests that service be discontinued and provides 7 or more business days notice before the date for discontinuance of service, the utility cease billing the customer for additional services as of midnight of the last day of service.~~

~~This bill would authorize a customer of a cable television corporation or cable operator (cable company) to request that cable service be discontinued. If the customer is required to return converters or other equipment upon cable service being discontinued, the bill would require the cable company to schedule, within 7 business days, an appointment for the cable company to pick up the equipment. The bill would authorize a cable company to provide the customer with prepaid mailers or other forms of prepaid shipping packaging for the return of any equipment in lieu of an appointment. The customer's liability for cable service would terminate on the effective day that cable service is discontinued, as specified. The bill would require that certain information be given to the customer regarding the customer's return of the equipment and the customer's liability for charges pending that return.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 ~~SECTION 1. Article 6 (commencing with Section 8290) is~~
2 ~~added to Chapter 7 of Division 4 of the Public Utilities Code, to~~
3 ~~read:~~

4 ~~SECTION 1. Section 53088.2 of the Government Code is~~
5 ~~amended to read:~~

6 53088.2. (a) Every video provider shall render reasonably
7 efficient service, make repairs promptly, and interrupt service
8 only as necessary.

9 (b) All video provider personnel contacting subscribers or
10 potential subscribers outside the office of the provider shall be
11 clearly identified as associated with the video provider.

12 (c) At the time of installation, and annually thereafter, all
13 video providers shall provide to all customers a written notice of
14 the programming offered, the prices for that programming, the
15 provider's installation and customer service policies, and the
16 name, address, and telephone number of the local franchising
17 authority.

18 (d) All video providers shall have knowledgeable, qualified
19 company representatives available to respond to customer
20 telephone inquiries Monday to Friday, inclusive, excluding
21 holidays, during normal business hours.

22 (e) All video providers shall provide to customers a toll-free or
23 local telephone number for installation, and service, and
24 complaint calls. These calls shall be answered promptly by the
25 video providers. The city, county, or city and county may
26 establish standards for what constitutes promptness.

27 (f) All video providers shall render bills that are accurate and
28 understandable.

29 (g) All video providers shall respond to a complete outage in a
30 customer's service promptly. The response shall occur within 24
31 hours of the reporting of the outage to the provider, except in
32 those situations beyond the reasonable control of the video
33 provider. A video provider shall be deemed to respond to a
34 complete outage when a company representative arrives at the
35 outage location within 24 hours and begins to resolve the
36 problem.

37 (h) All video providers shall provide a minimum of 30 days'
38 written notice before increasing rates or deleting channels. All

1 video providers shall make every reasonable effort to submit the
2 notice to the city, county, or city and county in advance of the
3 distribution to customers. The 30-day notice is waived if the
4 increases in rates or deletion of channels were outside the control
5 of the video provider. In those cases the video provider shall
6 make reasonable efforts to provide customers with as much
7 notice as possible.

8 (i) Every video provider shall allow every residential customer
9 who pays his or her bill directly to the video provider at least 15
10 days from the date the bill for services is mailed to the customer,
11 to pay the listed charges unless otherwise agreed to pursuant to a
12 residential rental agreement establishing tenancy. Customer
13 payments shall be posted promptly. No video provider may
14 terminate residential service for nonpayment of a delinquent
15 account unless the video provider furnishes notice of the
16 delinquency and impending termination at least 15 days prior to
17 the proposed termination. The notice shall be mailed, postage
18 prepaid, to the customer to whom the service is billed. Notice
19 shall not be mailed until the 16th day after the date the bill for
20 services was mailed to the customer. The notice of delinquency
21 and impending termination may be part of a billing statement. No
22 video provider may assess a late fee any earlier than the 22nd day
23 after the bill for service has been mailed.

24 (j) Every notice of termination of service pursuant to
25 subdivision (i) shall include all of the following information:

26 (1) The name and address of the customer whose account is
27 delinquent.

28 (2) The amount of the delinquency.

29 (3) The date by which payment is required in order to avoid
30 termination of service.

31 (4) The telephone number of a representative of the video
32 provider who can provide additional information and handle
33 complaints or initiate an investigation concerning the service and
34 charges in question.

35 Service may only be terminated on days in which the customer
36 can reach a representative of the video provider either in person
37 or by telephone.

38 (k) Any service terminated without good cause shall be
39 restored without charge for the service restoration. Good cause
40 includes, but is not limited to, failure to pay, payment by check

1 for which there are insufficient funds, theft of service, abuse of
2 equipment or system personnel, or other similar subscriber
3 actions.

4 *(l) A video provider shall cease billing a customer for*
5 *additional services within seven business days of receiving a*
6 *request to terminate service. If the customer requests that service*
7 *be terminated and provides seven or more business days notice*
8 *before the date for termination of service, the video provider*
9 *shall cease billing the customer for additional services as of*
10 *midnight of the last day of service.*

11 ~~(l)~~—

12 *(m) All video providers shall issue requested refund checks*
13 *promptly, but no later than 45 days following the resolution of*
14 *any dispute, and following the return of the equipment supplied*
15 *by the video provider, if service is terminated.*

16 ~~(m)~~—

17 *(n) All video providers shall issue security or customer deposit*
18 *refund checks promptly, but no later than 45 days following the*
19 *termination of service, less any deductions permitted by law.*

20 ~~(n)~~—

21 *(o) Video providers shall not disclose the name and address of*
22 *a subscriber for commercial gain to be used in mailing lists or for*
23 *other commercial purposes not reasonably related to the conduct*
24 *of the businesses of the video providers or their affiliates, unless*
25 *the video providers have provided to the subscriber a notice,*
26 *separate or included in any other customer notice, that clearly*
27 *and conspicuously describes the subscriber's ability to prohibit*
28 *the disclosure. Video providers shall provide an address and*
29 *telephone number for a local subscriber to use without toll charge*
30 *to prevent disclosure of the subscriber's name and address.*

31 ~~(o)~~—

32 *(p) Disputes concerning the provisions of this article shall be*
33 *resolved by the city, county, or city and county in which the*
34 *customer resides. For video providers under Section 53066, the*
35 *franchising authority shall resolve disputes. All other video*
36 *providers shall register with the city in which they provide*
37 *service or, where the customers reside in an unincorporated area,*
38 *in the county in which they provide service. The registration shall*
39 *include the name of the company, its address, its officers,*
40 *telephone numbers, and customer service and complaint*

1 procedures. Counties and cities may charge these other video
2 providers operating in the state a fee to cover the reasonable cost
3 of administering this division.

4 ~~(p)~~

5 (q) Nothing in this division limits any power of a city, county,
6 or city and county or video provider to adopt and enforce service
7 standards and consumer protection standards that exceed those
8 established in this division.

9 ~~(q)~~

10 (r) The legislative body of the city, county, or city and county,
11 may, by ordinance, provide a schedule of penalties for the
12 material breach by a video provider of subdivisions (a) to (p),
13 inclusive. No monetary penalties shall be assessed for a material
14 breach if the breach is out of the reasonable control of the video
15 provider. Further, no monetary penalties may be imposed prior to
16 the effective date of this section. Any schedule of monetary
17 penalties adopted pursuant to this section shall in no event
18 exceed two hundred dollars (\$200) for each day of each material
19 breach, not to exceed six hundred dollars (\$600) for each
20 occurrence of material breach. However, if a material breach of
21 any of subdivisions (a) to (p), inclusive, has occurred and the
22 city, county, or city and county has provided notice and a fine or
23 penalty has been assessed, in a subsequent material breach of the
24 same nature occurring within 12 months, the penalties may be
25 increased by the city, county, or city and county to a maximum
26 of four hundred dollars (\$400) for each day of each material
27 breach, not to exceed one thousand two hundred dollars (\$1,200)
28 for each occurrence of the material breach. If a third or further
29 material breach of the same nature occurs within those same 12
30 months, and the city, county, or city and county has provided
31 notice and a fine or penalty has been assessed, the penalties may
32 be increased to a maximum of one thousand dollars (\$1,000) for
33 each day of each material breach, not to exceed three thousand
34 dollars (\$3,000) for each occurrence of the material breach. With
35 respect to video providers subject to a franchise or license, any
36 monetary penalties assessed under this section shall be reduced
37 dollar for dollar to the extent any liquidated damage or penalty
38 provision of a current cable television ordinance, franchise
39 contract, or license agreement imposes a monetary obligation
40 upon a video provider for the same customer service failures, and

1 no other monetary damages may be assessed. However, this
2 section shall in no way affect the right of franchising authorities
3 concerning assessment or renewal of a cable television franchise
4 under the provisions of the Cable Communications Policy Act of
5 1984 (47 U.S.C. Sec. 521 et seq.).

6 ~~(r)~~—

7 (s) If the legislative body of a city, county, or city and county
8 adopts a schedule of monetary penalties pursuant to subdivision
9 (q), the following procedures shall be followed:

10 (1) The city, county, or city and county shall give the video
11 provider written notice of any alleged material breaches of the
12 consumer service standards of this division and allow the video
13 provider at least 30 days from receipt of the notice to remedy the
14 specified breach.

15 (2) A material breach for the purposes of assessing penalties
16 shall be deemed to have occurred for each day, following the
17 expiration of the period specified in paragraph (1), that any
18 material breach has not been remedied by the video provider,
19 irrespective of the number of customers affected.

20 ~~(s)~~—

21 (t) Notwithstanding subdivision (o), or any other provision of
22 law, this section shall not preclude a party affected by this
23 section from utilizing any judicial remedy available to that party
24 without regard to this section. Actions taken by a local legislative
25 body, including a franchising authority, pursuant to this section
26 shall not be binding upon a court of law. For this purpose a court
27 of law may conduct de novo review of any issues presented.

28 ~~Article 6. Utility and Cable Billing Practices.~~

29
30 ~~8290. For purposes of this article, a utility shall mean all of~~
31 ~~the following:~~

32 ~~(a) An electric corporation, as defined in Section 218.~~

33 ~~(b) A water corporation, as defined in Section 241.~~

34 ~~(c) A telephone corporation, as defined in Section 234.~~

35 ~~(d) A telecommunications carrier, as defined in Section 153 of~~
36 ~~Title 47 of the United States Code.~~

37 ~~(e) A gas corporation, as defined in Section 222.~~

38 ~~(f) A cable television corporation, as defined in Section 215.5.~~

39 ~~(g) A cable operator, as defined in Section 522 of Title 47 of~~
40 ~~the United States Code.~~

1 ~~8291. A utility, for which the commission has not adopted a~~
2 ~~general rule or order, or approved a tariff, specifying the just and~~
3 ~~reasonable charges that may be made by the utility when the~~
4 ~~customer discontinues service, shall cease billing a customer for~~
5 ~~additional services within seven business days of receiving a~~
6 ~~request to immediately discontinue service. Where the customer~~
7 ~~requests that service be discontinued and provides seven or more~~
8 ~~business days notice before the date for discontinuance of~~
9 ~~service, the utility shall cease billing the customer for additional~~
10 ~~services as of midnight of the last day of service.~~

11 ~~8292. (a) A customer of a cable television corporation, as~~
12 ~~defined in Section 215.5, or of a cable operator, as defined in~~
13 ~~Section 522 of Title 47 of the United States Code, may request~~
14 ~~that service from the cable television corporation or cable~~
15 ~~operator be discontinued. If, as a condition for cable service, the~~
16 ~~customer was supplied with converters or other equipment and~~
17 ~~the customer is required to return the equipment upon cable~~
18 ~~service being discontinued, the cable television corporation or~~
19 ~~cable operator shall, within seven business days following the~~
20 ~~customer's request to discontinue service, schedule an~~
21 ~~appointment for the cable television corporation or cable operator~~
22 ~~or its agent to pick up any converters or other equipment supplied~~
23 ~~to the customer by the cable television corporation or cable~~
24 ~~operator or its agent. A cable television corporation or cable~~
25 ~~operator or its agent may provide the customer with prepaid~~
26 ~~mailers or other forms of prepaid shipping packaging for the~~
27 ~~return of any converters or other equipment in lieu of an~~
28 ~~appointment.~~

29 ~~(b) Upon receiving a request from a customer to discontinue~~
30 ~~cable service, a cable television corporation or cable operator~~
31 ~~shall advise the customer of the right to an appointment within~~
32 ~~seven business days, for the cable television corporation or cable~~
33 ~~operator or its agent to pick up any converters or other equipment~~
34 ~~supplied to the customer by the cable television corporation or~~
35 ~~cable operator or its agent. The customer shall additionally be~~
36 ~~advised of his or her liability for charges pending the return of~~
37 ~~any converters or other equipment. If the cable television~~
38 ~~corporation or cable operator or its agent provides the customer~~
39 ~~with a prepaid mailer or any other form of prepaid shipping~~
40 ~~packaging for the return of any converters or other equipment in~~

1 lieu of an appointment, the customer shall be advised of his or
2 her liability for charges pending the mailing or shipping of any
3 converters or other equipment.

4 (e) ~~The customer's liability for cable service shall terminate on~~
5 ~~the effective day that cable service is discontinued. If, as a~~
6 ~~condition for cable service, the customer was supplied with~~
7 ~~converters or other equipment and the customer is required to~~
8 ~~return the equipment upon cable service being discontinued, the~~
9 ~~discontinuation of service is effective upon the earlier of the~~
10 ~~following:~~

11 (1) ~~The day the customer returns any converters or other~~
12 ~~equipment supplied to the customer by the cable television~~
13 ~~corporation or cable operator or its agent.~~

14 (2) ~~The day of the appointment mutually scheduled between~~
15 ~~the cable television corporation or cable operator and the~~
16 ~~customer, for the cable television corporation or cable operator or~~
17 ~~its agent to pick up any converters or other equipment supplied to~~
18 ~~the customer by the cable television corporation or cable operator~~
19 ~~or its agent, if the cable television corporation or cable operator~~
20 ~~is unable to keep the appointment. If the cable television~~
21 ~~corporation or cable operator is unable to keep the appointment,~~
22 ~~the customer shall be provided with a credit in an amount equal~~
23 ~~to the current billing rate for one month of basic service to which~~
24 ~~the customer subscribes, and the television corporation or cable~~
25 ~~operator shall reschedule a pickup of the customer's converters~~
26 ~~or other equipment at the convenience of the customer.~~

27 (3) ~~The day of the appointment mutually scheduled between~~
28 ~~the cable television corporation or cable operator and the~~
29 ~~customer, for the cable television corporation or operator or its~~
30 ~~agent to pick up any converters or other equipment supplied to~~
31 ~~the customer by the cable television corporation or cable operator~~
32 ~~or its agent, if the customer requests that the appointment be~~
33 ~~scheduled more than seven days after the request by the customer~~
34 ~~to discontinue service.~~

35 (4) ~~The day of the appointment mutually rescheduled between~~
36 ~~the cable television corporation or cable operator and the~~
37 ~~customer, for the cable television corporation or cable operator or~~
38 ~~its agent to pick up any converters or other equipment supplied to~~
39 ~~the customer by the cable television corporation or cable operator~~

1 or its agent, if the customer requests that the appointment be
2 rescheduled.
3 (5) If the cable television corporation or cable operator or its
4 agent provides the customer with a prepaid mailer or any other
5 form of prepaid shipping packaging for the return of any
6 converters or other equipment, the day the customer mails or
7 ships the converters and equipment.
8 (d) The cable television corporation or cable operator shall not
9 initiate any action against a customer for a failure to return any
10 converters or other equipment if the cable television corporation
11 or cable operator has failed to comply with this section.