

104TH CONGRESS
2D SESSION

H. R. 2979

To ensure the financial self-sufficiency of public broadcasting, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 1996

Mr. FIELDS of Texas (for himself, Mr. PORTER, Mr. OXLEY, Mr. MOORHEAD, Mr. SCHAEFER, Mr. BARTON of Texas, Mr. HASTERT, Mr. GILLMOR, and Mr. FRISA) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To ensure the financial self-sufficiency of public broadcasting, 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 “Public Broadcasting
5 Self-Sufficiency Act of 1996”.

1 **TITLE I—TRANSITION FROM**
2 **FEDERAL FUNDING**
3 **Subtitle A—Public Broadcasting**
4 **Station Opportunities**

5 **SEC. 101. DEFINITIONS.**

6 Section 397 of the Communications Act of 1934 (47
7 U.S.C. 397) is amended by adding at the end the following
8 new paragraph:

9 “(18) The term ‘transition period’ means the
10 period beginning on the date of enactment of the
11 Public Broadcasting Self-Sufficiency Act of 1996
12 and ending at the close of September 30, 2000.”.

13 **SEC. 102. EXPANDED UNDERWRITING OPPORTUNITIES.**

14 Section 399B(b) of the Communications Act of 1934
15 (47 U.S.C. 399b) is amended by adding at the end thereof
16 the following new paragraph:

17 “(3) Paragraph (2) shall not prohibit a public broad-
18 cast station from broadcasting or accepting remuneration
19 for broadcasting—

20 “(A) well-established corporate logos or slogans,
21 even if such logos or slogans include a call to action
22 by the viewer or listener; or

23 “(B) strictly quantifiable comparative descrip-
24 tions of products, services, or providers of products
25 or services.”.

1 **SEC. 103. PUBLIC/COMMERCIAL PARTNERSHIPS.**

2 Section 399(b) of the Communications Act of 1934
3 is further amended by adding at the end the following new
4 paragraph:

5 “(4) A noncommercial educational broadcast station
6 may broadcast programs produced by, or at the expense
7 of, or furnished by persons other than the licensee, and
8 may receive compensation (in addition to costs incidental
9 to production and broadcasting) for broadcasting such
10 programs.”.

11 **SEC. 104. CONVERSION OF STATIONS TO COMMERCIAL STA-**
12 **TUS.**

13 Subpart E of part IV of title III of the Communica-
14 tions Act of 1934 is amended by adding at the end the
15 following new section:

16 **“SEC. [399D.] TELEVISION CHANNEL EXCHANGES.**

17 “(a) PETITION.—The licensees or permittees of a
18 commercial and a public broadcast television station may
19 jointly petition the Commission to request an exchange of
20 channels (including public broadcast television stations on
21 VHF channels to be exchanged for UHF channels). The
22 Commission shall, within 90 days after receipt of such a
23 petition, amend the television table of allotments and mod-
24 ify the licenses (or permits) of the petitioners to specify
25 operation on the appropriately exchanged channels upon
26 finding that—

1 “(1) the stations serve substantially the same
2 market; and

3 “(2) the consideration to be paid to the public
4 broadcast television licensee or permittee—

5 “(A) will be dedicated to the provision of
6 public telecommunications services; and

7 “(B) fairly reflects the value of the ex-
8 change of channels and related facilities.

9 “(b) OTHER CONSIDERATIONS PROHIBITED.—In
10 acting on the joint petition, the Commission may not con-
11 sider proposals by other parties to become licensees or per-
12 mittees on the channels to be exchanged.”.

13 **SEC. 105. REMUNERATIVE USES OF OVERLAPPING STA-**
14 **TIONS.**

15 Subpart E of part IV of title III of the Communica-
16 tions Act of 1934 is further amended by inserting after
17 section 399D (as added by section 104 of this Act) the
18 following new section:

19 **“SEC. [399E.] REMUNERATIVE USES OF OVERLAPPING STA-**
20 **TIONS.**

21 “(a) REMUNERATIVE USES.—

22 “(1) AUTHORITY TO OPERATE FOR REMUNERA-
23 TIVE PURPOSES.—Subject to the requirements and
24 limitations of this section, the licensee or licensees of
25 2 overlapping stations may, notwithstanding the al-

1 located and licensed status of such stations as non-
2 commercial educational television stations, operate
3 one such station for remunerative purposes, includ-
4 ing the transmission of commercial television pro-
5 gramming originated by such licensee or by another
6 party and transmission of subscription television or
7 pay-per-view services.

8 “(2) CONDITIONS FOR REMUNERATIVE USE.—

9 The licensee or licensees of overlapping stations in-
10 tending to operate one of such stations for remu-
11 nerative purposes pursuant to paragraph (1) shall
12 file with the Commission a joint operating agree-
13 ment or other instrument providing assurances
14 that—

15 “(A) the remuneration from such oper-
16 ations (in excess of the costs of the commercial
17 and public television operations of such station)
18 is dedicated to the provision of local public tele-
19 communications services on the other overlap-
20 ping station to substantially the same market;
21 and

22 “(B) the station operated for remunerative
23 purposes is, but for the remunerative oper-
24 ations, otherwise operated consistent with the
25 provisions of this Act and the rules and policies

1 of the Commission applicable to such oper-
2 ations.

3 “(3) INELIGIBILITY FOR GRANTS.—No non-
4 commercial educational television station operating
5 under an agreement or instrument filed under para-
6 graph (2) shall be eligible to receive any grant from
7 funds appropriated pursuant to section 396.

8 “(b) SALE OF OVERLAPPING STATION.—

9 “(1) SALE PERMITTED.—Upon application by
10 the licensee of 2 or more overlapping public tele-
11 vision stations, the Commission shall approve the as-
12 signment of one of the licenses of such licensee for
13 a television station to another person or entity, and
14 shall permit such person or entity to operate such
15 station as a commercial television station, if—

16 “(A) the licensee assigning such license
17 will dedicate all compensation received for such
18 assignment to the support of the local public
19 telecommunications services on the retained sta-
20 tion; and

21 “(B) the compensation provided to the li-
22 censee for assigning such license fairly reflects
23 the value of the license and related facilities.

24 “(2) INELIGIBILITY FOR GRANTS.—No public
25 television station operated by the licensee making an

1 assignment of a license under paragraph (1) shall be
2 eligible to receive a grant from funds appropriated
3 pursuant to section 396.

4 “(c) DEFINITIONS.—For purposes of this section:

5 “(1) OVERLAPPING STATION.—Two public tele-
6 vision stations are ‘overlapping stations’ if the Grade
7 A contour of one of such stations reaches more than
8 50 percent of the Grade A contour of the other such
9 station in the same television market.

10 “(2) TELEVISION MARKET.—The term ‘tele-
11 vision market’ has the meaning provided in section
12 76.55(e)(1) of the Commission’s rules (47 C.F.R.
13 76.55(e)(1)).”.

14 **Subtitle B—Corporation for Public** 15 **Broadcasting Financial Flexibility**

16 **SEC. 121. RELAXATION AND REDUCTION OF STATUTORY** 17 **MANDATES.**

18 (a) PURPOSES.—Subsection (a) of section 396 of the
19 Communications Act of 1934 (47 U.S.C. 396(a)) is
20 amended to read as follows:

21 “(a) PURPOSES.—The purposes of the Corporation
22 for Public Broadcasting shall be—

23 “(1) to promote the delivery of local public tele-
24 communications services which advance education,

1 support culture, and foster citizenship for all Ameri-
2 cans;

3 “(2) to promote efficiency and effectiveness in
4 the provision of public broadcasting services,
5 through technological advances and, where appro-
6 priate, through mergers, consolidations, and joint
7 operating agreements;

8 “(3) to promote and support program produc-
9 tion;

10 “(4) to preserve and enhance the geographic
11 and cultural diversity of public broadcasting pro-
12 grams and services;

13 “(5) to support public broadcasting services for
14 rural and underserved areas and audiences;

15 “(6) to create and deliver creative and diverse
16 programming and services of high quality and excel-
17 lence;

18 “(7) to preserve and protect their editorial in-
19 tegrity and independence; and

20 “(8) to pioneer new telecommunications tech-
21 nologies and to adapt those technologies for edu-
22 cational and public service purposes.”.

23 (b) AUTHORIZED ACTIVITIES.—Subsection (g) of
24 such section is amended to read as follows:

1 “(g) The Corporation is authorized to take such ac-
2 tions consistent with the District of Columbia Nonprofit
3 Corporation Act (D.C. Code, sec. 29–1001 et seq.) as it
4 may, in the exercise of its business judgment, determine
5 to be necessary to carry out the purposes set forth in sub-
6 section (a) of this section. To carry out such purposes and
7 to take such actions, the Corporation shall have the usual
8 powers conferred on a nonprofit corporation by such
9 Act.”.

10 (c) FINANCING.—

11 (1) AUTHORIZATION OF APPROPRIATIONS.—

12 Section 396(k)(1) of the Communications Act of
13 1934 (47 U.S.C. 396(k)(1)) is amended—

14 (A) by striking subparagraph (B) and in-
15 serting the following:

16 “(B) There are authorized to be appropriated to the
17 Fund \$250,000,000 for each of the fiscal years 1998,
18 1999, and 2000.”;

19 (B) by striking subparagraphs (C) and
20 (E);

21 (C) by redesignating subparagraph (D) as
22 subparagraph (C); and

23 (D) by inserting after such subparagraph
24 (C) the following new subparagraph:

1 “(D) The Secretary of the Treasury shall make the
2 appropriated funds under this subsection available on a
3 fiscal year basis.”.

4 (d) ALLOCATION OF APPROPRIATIONS.—Section
5 396(k) of such Act is further amended by striking para-
6 graphs (2) through (10) and inserting the following:

7 “(2) BUDGET FOR ALLOCATION.—During the
8 transition period, the Corporation shall establish an
9 annual budget for use in allocating amounts from
10 the Fund. Of the amounts appropriated into the
11 Fund available for allocation for any fiscal year dur-
12 ing the transition period—

13 “(A) not more than 5 percent of all the
14 amounts appropriated into the Fund available
15 for allocation for any fiscal year shall be avail-
16 able for administrative expenses;

17 “(B) 75 percent of the remainder (after al-
18 locations are made under subparagraph (A))
19 shall be allocated in direct grants to public tele-
20 vision stations for the provision of public tele-
21 vision broadcasting; and

22 “(C) 25 percent of such remainder shall be
23 allocated in direct grants to public radio sta-
24 tions for the provision of public radio broad-
25 casting.

1 “(3) CONDITIONS ON ALLOCATIONS PER-
2 MITTED.—The Corporation shall have the authority
3 to establish requirements, guidelines, and limitations
4 with respect to the use of Federal funds by public
5 broadcasting stations.

6 “(4) PUBLIC ACCOUNTABILITY OF RECIPI-
7 ENTS.—During the transition period, funds may not
8 be distributed pursuant to this subsection to the
9 Public Broadcasting Service or National Public
10 Radio (or any successor organization), or to the li-
11 censee or permittee of any public broadcast station,
12 unless the governing body of any such organization,
13 any committee of such governing body, or any advi-
14 sory body of any such organization, holds open meet-
15 ings preceded by reasonable notice to the public. All
16 persons shall be permitted to attend any meeting of
17 the board, or of any such committee or body, and no
18 person shall be required, as a condition to attend-
19 ance at any such meeting, to register such person’s
20 name or to provide any other information. Nothing
21 contained in this paragraph shall be construed to
22 prevent any such board, committee, or body from
23 holding closed sessions to consider matters relating
24 to individual employees, proprietary information, liti-
25 gation and other matters requiring the confidential

1 advice of counsel, commercial or financial informa-
2 tion obtained from a person on a privileged or con-
3 fidential basis, or the purchase of property or serv-
4 ices whenever the premature exposure of such pur-
5 chase would compromise the business interests of
6 any such organization. If any such meeting is closed
7 pursuant to the provisions of this paragraph, the or-
8 ganization involved shall thereafter (within a reason-
9 able period of time) make available to the public a
10 written statement containing an explanation of the
11 reasons for closing the meeting.

12 “(5) PUBLIC ACCESS TO REPORTS.—During the
13 transition period, funds may not be distributed pur-
14 suant to this subsection to any public telecommuni-
15 cations entity that does not maintain for public ex-
16 amination copies of the annual financial and audit
17 reports, or other information regarding finances,
18 submitted to the Corporation.

19 “(6) ONE-STATION-TO-A-MARKET SUPPORT.—
20 During the transition period, the Corporation shall
21 ensure that—

22 “(A) in communities in which there is a
23 substantial overlap in the service areas of public
24 television stations, the total funds made avail-
25 able to those stations are not more than would

1 be provided if such areas were served by a sin-
2 gle station; and

3 “(B) in communities in which there is a
4 substantial overlap in the service areas of public
5 radio station, the total funds made available to
6 those stations are not more than would be pro-
7 vided if such areas were served by a single sta-
8 tion, unless such stations serve significantly dif-
9 ferent listening audiences, using distinct for-
10 mats and providing a high proportion of locally
11 originated programming.

12 “(7) RATES OF PAY.—During the transition pe-
13 riod, funds may not be distributed pursuant to this
14 subsection to the Public Broadcasting Service or Na-
15 tional Public Radio (or any successor organization)
16 unless assurances are provided to the Corporation
17 that no officer or employee of the Public Broadcast-
18 ing Service or National Public Radio (or any succes-
19 sor organization), as the case may be, will be com-
20 pensated at an annual rate of pay which exceeds the
21 rate of basic pay in effect from time to time for level
22 I of the Executive Schedule under section 5312 of
23 title 5, United States Code, and unless further as-
24 surances are provided to the Corporation that no of-

1 ficer or employee of such an entity will be loaned
2 money by that entity on an interest-free basis.

3 “(8) SATELLITE INTERCONNECTION FUND.—

4 “(A) There is hereby established in the
5 Treasury a fund which shall be known as the
6 Public Broadcasting Satellite Interconnection
7 Fund (hereinafter in this subsection referred to
8 as the ‘Satellite Interconnection Fund’), to be
9 administered by the Secretary of the Treasury.

10 “(B) By December 31, 1996, the Public
11 Broadcasting Service and National Public
12 Radio shall prepare a final report for Congress
13 on the status of the Satellite Interconnection
14 Fund.

15 “(9) POST-TRANSITION DISCRETION.—The pro-
16 visions of this subsection shall cease to be effective
17 upon the expiration of the transition period. There-
18 after, the Corporation may make funding and fi-
19 nancing decisions, and place requirements on licens-
20 ees, permittees and other public broadcasting enti-
21 ties, in the exercise of its business judgment in con-
22 sultation with public television and radio licensees.”.

1 **TITLE II—PRIVATIZATION OF**
2 **THE CORPORATION FOR PUB-**
3 **LIC BROADCASTING**

4 **SEC. 201. CONVERSION OF CORPORATION.**

5 (a) CONVERSION OF BOARD TO PRIVATE APPOINT-
6 MENT PROCEDURES.—Section 396(c) of the Communica-
7 tions Act of 1934 is amended to read as follows:

8 “Board of Directors

9 “(c)(1) The Corporation for Public Broadcasting
10 shall have a Board of Directors (hereinafter in this section
11 referred to as the ‘Board’). Until the expiration of the
12 transition period, the Board shall consist of 9 members
13 appointed by the President, no more than 6 of whom may
14 be members of the same political party.

15 “(2) Members of the Board appointed after the date
16 of enactment of the Public Broadcasting Self-Sufficiency
17 Act shall be selected by the President from a list of can-
18 didates nominated by the selection committee convened
19 under paragraph (3). The President may request the selec-
20 tion committee to nominate additional candidates. Such
21 candidates shall be selected by the selection committee and
22 the President on the basis of their qualifications and ex-
23 pertise in one or more of the following fields:

24 “(A) Investment management.

25 “(B) Corporate finance.

1 “(C) Telecommunications.

2 “(D) Education.

3 “(E) Public broadcasting.

4 “(3) Upon the occurrence of any vacancy in the
5 Board prior to the expiration of the transition period, a
6 selection committee is established to nominate candidates
7 for such vacancy. The selection committee shall be com-
8 posed of the majority and minority leaders of the Senate
9 and the Speaker and minority leader of the House of Rep-
10 resentatives. The selection committee shall consult with
11 representatives of public broadcast station licensee prior
12 to nominating any candidates.

13 “(4) After the expiration of the transition period,
14 members of the Board shall be appointed in accordance
15 with the bylaws of the Corporation. The terms of all mem-
16 bers appointed pursuant to this subsection shall expire
17 upon the expiration of the transition period, except as oth-
18 erwise provided in such bylaws as in effect on that date.

19 “(5) Any vacancy in the Board shall not affect its
20 power.”.

21 (e) TERMINATION OF PROVISIONS.—Section 396 of
22 such Act is further amended by adding at the end the fol-
23 lowing new subsection:

1 “Termination of Provisions

2 “(n) Effective at the end of the transition period, the
3 following provisions of this section shall cease to be effec-
4 tive: subsections (d), (e), (h), (i), (l), and (m).

5 **SEC. 202. ESTABLISHMENT OF TRUST FOR PUBLIC BROAD-**
6 **CASTING.**

7 (a) ESTABLISHMENT.—Subpart D of part IV of title
8 III of the Communications Act of 1934 is amended by in-
9 serting after section 396 (47 U.S.C. 396) the following
10 new section:

11 **“SEC. 396A. TRUST FOR PUBLIC BROADCASTING.**

12 “(a) PURPOSE.—It is the purpose of this section—

13 “(1) to provide for the establishment of a trust
14 fund by the Corporation to provide ongoing support
15 for public broadcasting after the cessation of annual
16 appropriations under section 396(k);

17 “(2) to prohibit expenditures from the corpus of
18 such trust fund; and

19 “(3) to authorize the appropriations to the
20 trust fund of the proceeds of certain competitive bid-
21 ding procedures, to form the corpus of the trust
22 fund.

23 “(b) REQUIREMENTS.—The Corporation shall, in ac-
24 cordance with the laws of the District of Columbia, estab-
25 lish a trust fund for the investment and management of

1 funds made available under this section. The instruments
2 governing such trust fund shall provide—

3 “(1) that no part of the trust fund corpus may
4 be expended for the operations of the Corporation or
5 otherwise in furtherance of the purposes of the Cor-
6 poration;

7 “(2) such trust fund corpus shall be invested in
8 such manner as the Board of the Corporation deter-
9 mines to be reasonable and prudent; and

10 “(3) the trust fund income shall be available in
11 accordance with the bylaws of the Corporation—

12 “(A) to carry out the purposes of section
13 396;

14 “(B) to pay the operational and adminis-
15 trative expenses of the Corporation;

16 “(C) to pay for public broadcasting system
17 support; and

18 “(D) to provide direct grants to public
19 broadcasting stations.

20 “(c) ALLOCATION REQUIREMENTS.—

21 “(1) ONE-STATION-TO-A-MARKET SUPPORT.—

22 The Corporation shall ensure that—

23 “(A) in communities in which there is a
24 substantial overlap in the service areas of public
25 television stations, the total funds made avail-

1 able through direct grants to those stations are
2 not more than would be provided if such areas
3 were served by a single station; and

4 “(B) in communities in which there is a
5 substantial overlap in the service areas of public
6 radio station, the total funds made available
7 through direct grants to those stations are not
8 more than would be provided if such areas were
9 served by a single station, unless such stations
10 serve significantly different listening audiences,
11 using distinct formats and providing a high pro-
12 portion of locally originated programming.

13 “(2) USE TO SUPPORT PROGRAM PRODUC-
14 TION.—The Corporation may expend up to 25 per-
15 cent of the income from trust for television and
16 radio program production.

17 “(d) AUTHORITY TO AUCTION VACANT RESERVED
18 CHANNELS.—

19 “(1) COMMISSION ACTION REQUIRED.—The
20 Commission shall allocate by means of competitive
21 bidding under section 309(j) the initial licenses and
22 construction permits for the use of such portions of
23 the electromagnetic spectrum as are, on the date of
24 the enactment of the Public Broadcasting Self-Suffi-
25 ciency Act, reserved for noncommercial education

1 television stations and as to which no application
2 has been accepted for filing by the Commission by
3 such date. In addition, the Commission shall allocate
4 by such means licenses and permits for stations re-
5 linquished under paragraph (5).

6 “(2) BIDDING REQUIREMENTS.—The competi-
7 tive bidding required by paragraph (1) shall be com-
8 pleted not later than January 1, 1999. In conduct-
9 ing such competitive bidding, the Commission—

10 “(A) shall, notwithstanding section
11 309(j)(4)(A), require lump sum payment of all
12 bids;

13 “(B) shall, notwithstanding section
14 309(j)(4)(D), not prescribe regulations granting
15 bidding preferences that would reduce receipts
16 from the competitive bidding required by para-
17 graph (1) of this subsection;

18 “(C) shall, prior to conducting such com-
19 petitive, make such adjustments to the commu-
20 nities of license of the stations to be allocated
21 as necessary, consistent with the avoidance of
22 harmful interference, to recover for the public
23 the full value of the spectrum resource being
24 made available; and

1 “(D) shall allocate to winning bidders the
2 same rights to obtain an allocation of spectrum
3 for the provision of advanced television services
4 as is available to any incumbent television
5 broadcast station licensee.

6 “(3) USE OF PROCEEDS; BIDDING CONTINGENT
7 ON APPROPRIATIONS.—The proceeds of any competi-
8 tive bidding conducted pursuant to this subsection,
9 not to exceed \$1,000,000,000, are authorized to be
10 appropriated to the trust fund established by the
11 Corporation under this section. No competitive bid-
12 ding may be conducted with respect to the portions
13 of the electromagnetic spectrum described in para-
14 graph (1) unless the proceeds of such bidding are
15 appropriated to such trust fund.

16 “(4) USE OF SPECTRUM.—The Commission
17 shall award commercial television broadcast licenses
18 to persons or entities that are successful bidders in
19 the competitive bidding required by paragraph (1).

20 “(5) AUTHORITY TO COMPENSATE RELINQUISH-
21 ING LICENSEES.—The Commission may enter into
22 agreements with public broadcasting entities for the
23 purpose of making available additional stations for
24 allocation by competitive bidding under paragraph
25 (1). Such agreements may provide that a public

1 broadcasting entity that agrees to relinquish its sta-
2 tion license may obtain 50 percent of the proceeds
3 of the competitive bidding for the spectrum pre-
4 viously allocated to that station. Any such agreement
5 shall provide that any amounts provided to such en-
6 tity under this paragraph shall be used to support
7 public broadcasting or education.

8 “(e) COMPLIANCE VERIFICATION.—Before making
9 any funds appropriated under subsection (d)(3) available
10 to the Corporation, the Secretary of the Treasury—

11 “(1) shall verify that the Corporation has estab-
12 lished the trust fund in accordance with the require-
13 ments of this section;

14 “(2) shall require the Corporation to agree that,
15 in the event of a substantial failure by the Corpora-
16 tion to carry out the purposes of section 396, the
17 corpus of the trust fund shall revert to the United
18 States;

19 “(3) shall verify that the Corporation has
20 amended its bylaws to provide for the prudent ad-
21 ministration of the trust fund by the Corporation
22 after the expiration of the transition period; and

23 “(4) may require such other information or
24 agreements as may be necessary to protect the Fed-
25 eral fiscal interest.

1 “(f) ANNUAL REPORT.—The Corporation shall sub-
2 mit to the Congress an annual statement on the financial
3 condition of the trust fund.”.

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