

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Traviesa offered the following:

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. This act may be cited as the "Consumer Choice
6 Act of 2006."

7 Section 2. Paragraphs (a) and (c) of subsection (2) of
8 section 202.24, Florida Statutes, are amended to read:

9 202.24 Limitations on local taxes and fees imposed on
10 dealers of communications services.--

11 (2)(a) Except as provided in paragraph (c), each public
12 body is prohibited from:

13 1. Levying on or collecting from dealers or purchasers of
14 communications services any tax, charge, fee, or other
15 imposition on or with respect to the provision or purchase of
16 communications services.

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17 2. Requiring any dealer of communications services to
18 enter into or extend the term of a franchise or other agreement
19 that requires the payment of a tax, charge, fee, or other
20 imposition.

21 3. Adopting or enforcing any provision of any ordinance or
22 agreement to the extent that such provision obligates a dealer
23 of communications services to charge, collect, or pay to the
24 public body a tax, charge, fee, or other imposition.

25
26 Municipalities and counties may not negotiate ~~Each municipality~~
27 ~~and county retains authority to negotiate all terms and~~
28 ~~conditions of a cable service franchise allowed by federal and~~
29 ~~state law except those~~ terms and conditions related to franchise
30 fees or ~~and~~ the definition of gross revenues or other
31 definitions or methodologies related to the payment or
32 assessment of franchise fees on providers of cable services.

33 (c) This subsection does not apply to:

34 1. Local communications services taxes levied under this
35 chapter.

36 2. Ad valorem taxes levied pursuant to chapter 200.

37 3. Occupational license taxes levied under chapter 205.

38 4. "911" service charges levied under chapter 365.

39 5. Amounts charged for the rental or other use of property
40 owned by a public body which is not in the public rights-of-way
41 to a dealer of communications services for any purpose,
42 including, but not limited to, the placement or attachment of
43 equipment used in the provision of communications services.

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44 6. Permit fees of general applicability which are not
45 related to placing or maintaining facilities in or on public
46 roads or rights-of-way.

47 7. Permit fees related to placing or maintaining
48 facilities in or on public roads or rights-of-way pursuant to s.
49 337.401.

50 8. Any in-kind requirements, institutional networks, or
51 contributions for, or in support of, the use or construction of
52 public, educational, or governmental access facilities allowed
53 under federal law and imposed on providers of cable service
54 pursuant to any existing ordinance or an existing franchise
55 agreement granted by each municipality or county, under which
56 ordinance or franchise agreement service is provided prior to
57 July 1, 2006, or as permitted under chapter 610. Nothing in this
58 subparagraph shall prohibit the ability of providers of cable
59 service to recover such expenses as allowed under federal law.

60 9. Special assessments and impact fees.

61 10. Pole attachment fees that are charged by a local
62 government for attachments to utility poles owned by the local
63 government.

64 11. Utility service fees or other similar user fees for
65 utility services.

66 12. Any other generally applicable tax, fee, charge, or
67 imposition authorized by general law on July 1, 2000, which is
68 not specifically prohibited by this subsection or included as a
69 replaced revenue source in s. 202.20.

70 Section 3. Paragraphs (a), (e), and (f) of subsection (3)
71 of section 337.401, Florida Statutes, are amended to read:

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72 337.401 Use of right-of-way for utilities subject to
73 regulation; permit; fees.--

74 (3)(a)~~1-~~ Because of the unique circumstances applicable to
75 providers of communications services, including, but not limited
76 to, the circumstances described in paragraph (e) and the fact
77 that federal and state law require the nondiscriminatory
78 treatment of providers of telecommunications services, and
79 because of the desire to promote competition among providers of
80 communications services, it is the intent of the Legislature
81 that municipalities and counties treat providers of
82 communications services in a nondiscriminatory and competitively
83 neutral manner when imposing rules or regulations governing the
84 placement or maintenance of communications facilities in the
85 public roads or rights-of-way. Rules or regulations imposed by a
86 municipality or county relating to providers of communications
87 services placing or maintaining communications facilities in its
88 roads or rights-of-way must be generally applicable to all
89 providers of communications services and, notwithstanding any
90 other law, may not require a provider of communications
91 services, ~~except as otherwise provided in subparagraph 2.,~~ to
92 apply for or enter into an individual license, franchise, or
93 other agreement with the municipality or county as a condition
94 of placing or maintaining communications facilities in its roads
95 or rights-of-way. In addition to other reasonable rules or
96 regulations that a municipality or county may adopt relating to
97 the placement or maintenance of communications facilities in its
98 roads or rights-of-way under this subsection, a municipality or
99 county may require a provider of communications services that
100 places or seeks to place facilities in its roads or rights-of-

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101 way to register with the municipality or county and to provide
102 the name of the registrant; the name, address, and telephone
103 number of a contact person for the registrant; the number of the
104 registrant's current certificate of authorization issued by the
105 Florida Public Service Commission, ~~or the Federal Communications~~
106 Commission, or the Department of State; and proof of insurance
107 or self-insuring status adequate to defend and cover claims. For
108 the purposes of this section, the term "communications service"
109 includes the term "cable service" as defined in s. 610.103(1)
110 and the term "competitive video programming services" as defined
111 in s. 610.118.

112 ~~2. Notwithstanding the provisions of subparagraph 1., a~~
113 ~~municipality or county may, as provided by 47 U.S.C. s. 541,~~
114 ~~award one or more franchises within its jurisdiction for the~~
115 ~~provision of cable service, and a provider of cable service~~
116 ~~shall not provide cable service without such franchise. Each~~
117 ~~municipality and county retains authority to negotiate all terms~~
118 ~~and conditions of a cable service franchise allowed by federal~~
119 ~~law and s. 166.046, except those terms and conditions related to~~
120 ~~franchise fees and the definition of gross revenues or other~~
121 ~~definitions or methodologies related to the payment or~~
122 ~~assessment of franchise fees and permit fees as provided in~~
123 ~~paragraph (c) on providers of cable services. A municipality or~~
124 ~~county may exercise its right to require from providers of cable~~
125 ~~service in kind requirements, including, but not limited to,~~
126 ~~institutional networks, and contributions for, or in support of,~~
127 ~~the use or construction of public, educational, or governmental~~
128 ~~access facilities to the extent permitted by federal law. A~~
129 ~~provider of cable service may exercise its right to recover any~~

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130 ~~such expenses associated with such in kind requirements, to the~~
131 ~~extent permitted by federal law.~~

132 (e) The authority of municipalities and counties to
133 require franchise fees from providers of communications
134 services, with respect to the provision of communications
135 services, is specifically preempted by the state, ~~except as~~
136 ~~otherwise provided in subparagraph (a)2.,~~ because of unique
137 circumstances applicable to providers of communications services
138 when compared to other utilities occupying municipal or county
139 roads or rights-of-way. Providers of communications services may
140 provide similar services in a manner that requires the placement
141 of facilities in municipal or county roads or rights-of-way or
142 in a manner that does not require the placement of facilities in
143 such roads or rights-of-way. Although similar communications
144 services may be provided by different means, the state desires
145 to treat providers of communications services in a
146 nondiscriminatory manner and to have the taxes, franchise fees,
147 and other fees paid by providers of communications services be
148 competitively neutral. Municipalities and counties retain all
149 existing authority, if any, to collect franchise fees from users
150 or occupants of municipal or county roads or rights-of-way other
151 than providers of communications services, and the provisions of
152 this subsection shall have no effect upon this authority. The
153 provisions of this subsection do not restrict the authority, if
154 any, of municipalities or counties or other governmental
155 entities to receive reasonable rental fees based on fair market
156 value for the use of public lands and buildings on property
157 outside the public roads or rights-of-way for the placement of
158 communications antennas and towers.

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159 (f) Except as expressly allowed or authorized by general
160 law and except for the rights-of-way permit fees subject to
161 paragraph (c), a municipality or county may not levy on a
162 provider of communications services a tax, fee, or other charge
163 or imposition for operating as a provider of communications
164 services within the jurisdiction of the municipality or county
165 which is in any way related to using its roads or rights-of-way.
166 A municipality or county may not require or solicit in-kind
167 compensation, except as otherwise provided in s. 202.24(2)(c)8.,
168 s. 610.1075(2), or s. 610.113 ~~subparagraph (a)2.~~ Nothing in this
169 paragraph shall impair any ordinance or agreement in effect on
170 May 22, 1998, or any voluntary agreement entered into subsequent
171 to that date, which provides for or allows in-kind compensation
172 by a telecommunications company.

173 Section 4. Section 337.4061, Florida Statutes, is amended
174 to read:

175 337.4061 Definitions; unlawful use of state-maintained
176 road right-of-way by nonfranchised cable ~~television~~ services.--

177 (1) As used in this section, the term:

178 (a) "Cable service" means:

179 1. The one-way transmission to subscribers of video
180 programming or any other programming service; and

181 2. Subscriber interaction, if any, which is required for
182 the selection of such video programming or other programming
183 service.

184 (b) "Cable system" means a facility, consisting of a set
185 of closed transmission paths and associated signal generation,
186 reception, and control equipment that is designed to provide
187 cable service which includes video programming and which is
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188 provided to multiple subscribers within a community, but such
189 term does not include:

190 1. A facility that serves only to retransmit the
191 television signals of one or more television broadcast stations;

192 2. A facility that serves only subscribers in one or more
193 multiple-unit dwellings under common ownership, control, or
194 management, unless such facility or facilities use any public
195 right-of-way;

196 3. A facility that serves subscribers without using any
197 public right-of-way;

198 4.3- A facility of a common carrier that is subject, in
199 whole or in part, to the provisions of 47 U.S.C. ss. 201 et
200 seq., except the specific bandwidths or wavelengths used by that
201 such facility shall be considered a cable system only to the
202 extent such bandwidths or wavelengths are facility is used in
203 the transmission of video programming directly to subscribers,
204 unless the extent of such use is solely to provide interactive
205 on-demand services, in which case the use of such bandwidths or
206 wavelengths is not a cable system; or

207 5.4- Any facilities of any electric utility used solely
208 for operating its electric utility systems.

209 (c) "Franchise" means an initial authorization or renewal
210 thereof issued by a franchising authority, whether such
211 authorization is designated as a franchise, permit, license,
212 resolution, contract, certificate, agreement, or otherwise,
213 which authorizes the construction or operation of a cable
214 system.

215 (d) "Franchising authority" means any governmental entity
216 empowered by federal, state, or local law to grant a franchise.

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217 (e) "Person" means an individual, partnership,
218 association, joint stock company, trust, corporation, or
219 governmental entity.

220 (f) "Video programming" means programming provided by or
221 generally considered comparable to programming provided by a
222 television broadcast station or cable system.

223 (2) It is unlawful to use the right-of-way of any state-
224 maintained road, including appendages thereto, and also
225 including, but not limited to, rest areas, wayside parks, boat-
226 launching ramps, weigh stations, and scenic easements, to
227 provide for cable service over a cable system ~~purposes~~ within a
228 geographic area subject to a valid existing franchise for cable
229 service, unless the cable system using such right-of-way holds a
230 franchise from a franchising authority ~~the municipality or~~
231 ~~county~~ for the area in which the right-of-way is located.

232 (3) A violation of this section shall be deemed a
233 violation of s. 337.406.

234 Section 5. Sections 610.102, 610.103, 610.104, 610.105,
235 610.107, 610.1075, 610.108, 610.109, 610.110, 610.111, 610.112,
236 610.113, 610.114, 610.115, 610.116, 610.117, and 610.118,
237 Florida Statutes, are created to read:

238 610.102 Authority to issue cable franchise.--The
239 department shall be designated as the franchising authority,
240 pursuant to 47 U.S.C. s. 522(10), for an ordinance or statutory
241 franchise for the provision of cable service. A municipality or
242 county may not grant a new franchise for the provision of cable
243 service within its jurisdiction after the effective date of this
244 act.

245 610.103 Definitions.--As used in this chapter, the term:
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- 246 (1) "Cable service" means:
247 (a) The one-way transmission to subscribers of video
248 programming or any other programming service.
249 (b) Subscriber interaction, if any, that is required for
250 the selection of such video programming or other programming
251 service.
252 (2) "Cable service provider" means a person that provides
253 cable service over a cable system.
254 (3) "Cable system" means a facility consisting of a set of
255 closed transmission paths and associated signal generation,
256 reception, and control equipment that is designed to provide
257 cable service that includes video programming and that is
258 provided to multiple subscribers within a community, but such
259 term does not include:
260 (a) A facility that serves only to retransmit the
261 television signals of one or more television broadcast stations;
262 (b) A facility that serves only subscribers in one or more
263 multiple-unit dwellings under common ownership, control, or
264 management, unless such facility or facilities use any public
265 right-of-way;
266 (c) A facility that serves subscribers without using any
267 public right-of-way;
268 (d) A facility of a common carrier that is subject, in
269 whole or in part, to the provisions of 47 U.S.C. ss. 201 et
270 seq., except the specific bandwidths or wavelengths over such
271 facility shall be considered a cable system only to the extent
272 such bandwidths or wavelengths are used in the transmission of
273 video programming directly to subscribers, unless the extent of

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274 such use is solely to provide interactive on-demand services, in
275 which case it is not a cable system; or

276 (e) Any facilities of any electric utility used solely for
277 operating its electric utility systems.

278 (4) "Certificateholder" means a cable service provider
279 that has been issued and holds an ordinance or statutory
280 certificate of franchise authority from the department.

281 (5) "Department" means the Department of State.

282 (6) "Franchise" or "franchise authority" means an initial
283 authorization or renewal of an authorization, regardless of
284 whether the authorization is designated as a franchise, permit,
285 license, resolution, contract, certificate, agreement, or
286 otherwise, to construct and operate a cable system in the public
287 right-of-way.

288 (7) "Incumbent cable service provider" means the cable
289 service provider serving the largest number of cable subscribers
290 in a particular municipal or county franchise area on July 1,
291 2006.

292 (8) "Public right-of-way" means the area on, below, or
293 above a public roadway, highway, street, sidewalk, or alley,
294 including, but not limited to, a municipal, county, state,
295 district, or other public roadway, highway, street, sidewalk, or
296 alley.

297 (9) "Video programming" means programming provided by, or
298 generally considered comparable to programming provided by, a
299 television broadcast station as set forth in 47 U.S.C. s.
300 522(20).

301 610.104 Standard cable ordinance; ordinance certificate of
302 franchise authority.--

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303 (1) A municipality or county may enact a standard cable
304 ordinance for the provision of cable service over a cable system
305 within its jurisdiction within 60 days after a request by an
306 entity or person, other than the incumbent cable service
307 provider, seeking to provide cable service over a cable system
308 in whole or in part within that municipality or county but in no
309 event later than January 1, 2007. A municipality must, at least
310 10 days prior to consideration on first reading, and a county
311 must, at least 15 days prior to consideration at a public
312 hearing, provide notice to the Secretary of State of a proposed
313 standard cable ordinance. The notice required by this subsection
314 must be published by the Secretary of State on a designated
315 Internet website.

316 (2) A standard cable ordinance shall contain each of the
317 terms and conditions set forth in s. 610.107 using the precise
318 language contained in that section. The standard cable ordinance
319 may contain any or all of the provisions in s. 610.1075(1)-(6)
320 and shall not impose any other terms or conditions upon a cable
321 service provider. If a municipality or county enacts a standard
322 cable ordinance within the 60-day period that complies with the
323 requirements of this section, an entity or person seeking to
324 provide cable service over a cable system in whole or in part
325 within that municipality or county shall file its application
326 for an ordinance certificate pursuant to the terms and
327 conditions set forth in s. 610.107 with the municipality or
328 county. Upon determining that an applicant has met the criteria
329 as set forth in s. 610.107, the municipality or county shall
330 immediately issue notice of compliance to the department,
331 whereupon the department shall issue an ordinance certificate of

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332 franchise authority that contains all of the terms set forth in
333 s. 610.108(4) within 5 business days. The standard cable
334 ordinance enacted by a municipality or county pursuant to, and
335 in conformance with, the requirements of this chapter shall
336 supersede any existing cable ordinance enacted by the county or
337 municipality with regard to any cable service provider electing
338 to apply for or operating under a standard ordinance
339 certificate. A municipality or county may not change the terms
340 of any ordinance adopted pursuant to this section, except that
341 the municipality or county may change terms adopted pursuant to
342 s. 610.1075 after a period of 10 years after the date of initial
343 enactment of the standard ordinance and every 10 years
344 thereafter, subject to the limits set forth in s. 610.1075(1)-
345 (6).

346 610.105 Statutory certificate.--In the event a
347 municipality or county fails to enact the standard cable
348 ordinance permitted by s. 610.104 within 60 days after a request
349 or before January 1, 2007, whichever is earlier, or fails to
350 provide notice of compliance with the department to allow the
351 department to issue an ordinance certificate pursuant to the
352 standard cable ordinance within the period set forth in s.
353 610.107(3), an entity or person seeking to provide cable service
354 over a cable system in whole or in part within that municipality
355 or county shall file for a statutory certificate of franchise
356 authority with the department as set forth in s. 610.108. If a
357 municipality or county disputes that its ordinance fails to
358 comply with the requirements of s. 610.104 or disputes that it
359 has failed to notify the department to issue an ordinance
360 certificate within the period set forth in s. 610.107(3), the

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361 statutory certificate of franchise authority shall govern until
362 the dispute is resolved and the municipality or county notifies
363 the department to issue an ordinance certificate pursuant to a
364 valid standard cable ordinance.

365 610.107 Required provisions of standard cable
366 ordinance.--A municipality or county electing to enact a
367 standard cable ordinance pursuant to s. 610.104 must adopt the
368 provisions set forth in subsections (1)-(11) using the precise
369 language set forth in those subsections, except as otherwise
370 indicated in brackets, and may not include any other terms or
371 conditions:

372 (1) An entity or person seeking to provide cable service
373 over a cable system located in whole or in part within [the
374 applicable municipality or county] must submit to [the
375 applicable municipal or county agency] an affidavit signed by an
376 officer or general partner of the applicant affirming:

377 (a) That the applicant has filed or will timely file with
378 the Federal Communications Commission all forms required by that
379 agency in advance of offering cable service in this state.

380 (b) That the applicant agrees to comply with all
381 applicable federal and state laws and regulations, to the extent
382 that such state laws and rules are not in conflict with or
383 superseded by the provisions of chapter 610 and s. 337.401,
384 Florida Statutes, or other applicable state law.

385 (c) That the applicant agrees to comply with all lawful
386 state laws and rules and municipal and county ordinances and
387 regulations regarding the placement and maintenance of
388 communications facilities in the public right-of-way that are

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389 generally applicable to providers of communications services in
390 accordance with s. 337.401, Florida Statutes.

391 (d) A description of the service area for which the
392 applicant seeks certificate of franchise authority, which need
393 not be coextensive with municipal, county, or other political
394 boundaries.

395 (e) The location of the applicant's principal place of
396 business and the names of the applicant's principal executive
397 officers.

398 (f) That the applicant is authorized to do business in the
399 state.

400 (g) That the applicant has sufficient technical,
401 financial, and managerial capability to provide cable service
402 within the service area for which the applicant seeks a
403 certificate of franchise authority. At the time of the filing of
404 the affidavit, the applicant shall furnish its most recent
405 unqualified audited financial statement if a publicly available
406 audited financial report for the applicant or its parent entity
407 is not available.

408 (h) That neither the applicant nor any of its current
409 principal executive officers are under indictment or have been
410 convicted of a felony in this state.

411 (2) Before the 10th business day after an applicant for a
412 certificate of franchise authority submits the affidavit
413 described in subsection (1), the [applicable municipal or county
414 agency] shall notify the applicant whether the applicant's
415 affidavit is complete. If the [applicable municipal or county
416 agency] finds that the application is incomplete, the
417 [applicable municipal or county agency] must specify with

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418 particularity the corrective action required and permit the
419 applicant to amend the application to cure any deficiency.

420 (3) The [applicable municipal or county agency] shall
421 provide a notice of compliance to the Department of State before
422 the 15th business day after receipt of an affidavit submitted by
423 an applicant pursuant to subsection (1), except that, if the
424 [applicable municipal or county agency] provides notice before
425 the 10th business day after receipt of the affidavit that the
426 affidavit is not complete pursuant to subsection (2), the
427 [applicable municipal or county agency] shall submit a notice of
428 compliance to the Department of State within 5 business days
429 after receipt of an amended affidavit.

430 (4) After the Department of State issues an ordinance
431 certificate of franchise authority pursuant to s. 610.104,
432 Florida Statutes, the applicant shall have the right to provide
433 cable service over a cable system as requested in the affidavit
434 and shall have the right to construct, maintain, and operate
435 facilities through, upon, over, and under any public right-of-
436 way or waters within [the applicable municipality or county].

437 (5) A certificateholder may include additional service
438 areas within [the applicable municipality or county] in its
439 current ordinance certificate by filing notice with the
440 [applicable municipal or county agency] and the Department of
441 State that reflects the new service area or areas to be served.

442 (6) The ordinance certificate is fully transferable to any
443 successor in interest to the applicant to which the certificate
444 is initially granted. A notice of transfer shall be filed with
445 the [applicable municipal or county agency] and the Department

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446 of State within 14 business days following the completion of
447 such transfer.

448 (7) The certificate of franchise authority issued by the
449 department may be terminated by the cable service provider by
450 submitting notice to the [applicable municipal or county agency]
451 and the Department of State.

452 (8) An applicant may challenge a denial of an application
453 or any failure to act by the [applicable municipal or county
454 agency] in a court of competent jurisdiction through a petition
455 for a writ of mandamus.

456 (9) The [applicable municipal or county agency] may adopt
457 a standard application form, in which case the application shall
458 be on such form.

459 (10) For the purposes of this ordinance, the definitions
460 set forth in s. 610.103, Florida Statutes, shall apply.

461 (11) After [the effective date of this ordinance], a cable
462 service provider operating under a franchise agreement granted
463 by [the applicable municipality or county] prior to [the
464 effective date of this ordinance] may elect to terminate its
465 existing franchise agreement pursuant to s. 610.109, Florida
466 Statutes, and obtain an ordinance franchise hereunder.

467 610.1075 Optional provisions of standard cable
468 ordinance.--A municipality or county electing to enact a
469 standard cable ordinance pursuant to s. 610.104 may include
470 provisions that:

471 (1) Establish the number of public, educational, and
472 governmental access channels that each cable service provider
473 must provide, upon request, to the municipality or county, as
474 follows:

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475 (a) A municipality or county may require an ordinance
476 certificateholder, within 180 days following a request from such
477 municipality or county, to designate a sufficient amount of
478 capacity on its network to allow the provision of a comparable
479 number of public, educational, and governmental access channels
480 or capacity equivalent that a municipality or county has
481 activated under the incumbent cable service provider's franchise
482 agreement as of January 1, 2006, or the number of channels or
483 capacity set forth in paragraph (b), whichever is greater. For
484 the purposes of this section, a public, educational, or
485 governmental channel is deemed activated if the channel is being
486 used for public, educational, or governmental programming within
487 the municipality or county for at least 4 hours per day. The
488 municipality or county may require, within 180 days following a
489 request from such municipality or county, additional channels or
490 capacity up to the equivalent permitted under the incumbent
491 cable service provider's franchise agreement as of January 1,
492 2006, upon a showing that activated channels are substantially
493 used, as set forth in s. 610.113(5).

494 (b) If a municipality or county did not have public,
495 educational, or governmental access channels activated under the
496 incumbent cable service provider's franchise agreement as of
497 January 1, 2006, the municipality or county may require the
498 ordinance certificateholder to furnish, not later than 180 days
499 following a request by the municipality or county:

500 1. Up to three public, educational, or governmental
501 channels or capacity equivalent for a municipality or county
502 with a population of at least 50,000.

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503 2. Up to two public, educational, or governmental channels
504 or capacity equivalent for a municipality or county with a
505 population of less than 50,000.

506 (c) All other provisions of s. 610.113 shall apply to the
507 provision of public, educational, or governmental access
508 channels by an ordinance certificateholder.

509 (2) Require the ordinance certificateholder to make cash
510 payments as follows:

511 (a) To the extent that the municipality or county was
512 entitled on July 1, 2006, to receive recurring cash payments on
513 a per subscriber basis to support the capital costs of public,
514 educational, and governmental access facilities pursuant to the
515 terms of the incumbent cable service provider's franchise, the
516 municipality or county may require an ordinance
517 certificateholder to make the same recurring cash payments on a
518 per subscriber basis until the expiration date set forth in the
519 incumbent cable service provider's franchise agreement existing
520 as of July 1, 2006, regardless of whether the incumbent cable
521 service provider's franchise agreement is terminated pursuant to
522 s. 610.109(4). Thereafter, the municipality or county may
523 require an ordinance certificateholder to pay to the
524 municipality or county an amount not to exceed 1 percent of the
525 certificateholder's sales price as defined in s. 202.11(13) for
526 the retail sale of cable services provided to customers located
527 within the respective municipal or county boundaries, based upon
528 the certificateholder's books and records. Such payments may
529 only be used by the municipality or county to support the
530 capital costs incurred by the municipality or county for public,
531 educational, or governmental access facilities. All payments

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532 made pursuant to this subsection shall be made in the same
533 manner as and as a part of the certificateholder's payment of
534 communications services tax pursuant to s. 202.27, and all
535 definitions, exemptions, and administrative provisions of
536 chapter 202 shall apply to such payments.

537 (b) If the municipality or county was not entitled on July
538 1, 2006, to receive recurring cash payments on a per subscriber
539 basis to support the capital costs of public, educational, and
540 governmental access facilities pursuant to the terms of the
541 incumbent cable service provider's franchise, or if the
542 municipality or county elects not to require payments under
543 paragraph (a), the municipality or county may require an
544 ordinance certificateholder to pay to the municipality or county
545 an amount not to exceed 1 percent of the certificateholder's
546 sales price as defined in s. 202.11(13) for the retail sale of
547 cable services provided to customers located within the
548 respective municipal or county boundaries, based upon the
549 certificateholder's books and records. Such payments may only be
550 used by the municipality or county to support the capital costs
551 incurred by the municipality or county for public, educational,
552 or governmental access facilities. All payments made pursuant to
553 this subsection shall be made in the same manner as and as a
554 part of the certificateholder's payment of communications
555 services tax pursuant to s. 202.27, and all definitions,
556 exemptions, and administrative provisions of chapter 202 shall
557 apply to such payments.

558 (3) Require each ordinance certificateholder, if requested
559 pursuant to a bona fide order for cable service, to make cable
560 service available at each building used for municipal or county

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561 purposes, including, but not limited to, emergency operations
562 centers, fire stations, and public schools within the area
563 described in its application under s. 610.107(1)(d), within 5
564 years after the date of the issuance of its certificate by the
565 municipality or county. Such provisions must permit the
566 ordinance certificateholder to satisfy this obligation using the
567 technology of its choice.

568 (4) Identify and cross-reference other municipal and
569 county ordinances and regulations regarding the placement and
570 maintenance of communications facilities in the public right-of-
571 way with which each ordinance certificateholder must comply. Any
572 other ordinance and regulation identified and cross-referenced
573 in the standard cable ordinance shall be generally applicable to
574 all providers of communications services in accordance with s.
575 337.401.

576 (5) Require an incumbent cable service provider to comply
577 with customer service requirements reasonably comparable to, and
578 that do not exceed, the standards in 47 C.F.R. s. 76.309(c).
579 Such requirements shall only apply until there are two or more
580 providers offering service, excluding direct-to-home satellite
581 service, in the relevant service area. In addition, the
582 municipality or county may require that cable service quality
583 complaints from customers of an ordinance certificateholder
584 within the jurisdiction of the municipality or county be filed
585 with an appropriate municipal or county office or agency. This
586 subsection shall not be construed to permit the municipality or
587 county to impose customer service standards in conflict with
588 this section. The municipality or county must require the
589 applicable municipal or county agency to address customer

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590 service complaints expeditiously by assisting with the
591 resolution of such complaints between the complainant and the
592 certificateholder.

593 (6) Require an ordinance certificateholder to update the
594 information contained in the original application for an
595 ordinance certificate no more frequently than once every 3
596 years.

597 610.108 Application process; statutory certificate of
598 franchise authority.--When a person or entity applies for a
599 statutory certificate of franchise authority under s. 610.105,
600 the following provisions apply:

601 (1) Before the 10th business day after an applicant for a
602 certificate of franchise authority submits the affidavit
603 described in subsection (2), the department shall notify the
604 applicant whether the applicant's affidavit is complete. If the
605 department denies the application, the department must specify
606 with particularity the reasons for the denial and permit the
607 applicant to amend the application to cure any deficiency. The
608 department shall act upon such amended application within 5
609 business days.

610 (2) The department shall issue a certificate of franchise
611 authority to offer cable service before the 15th business day
612 after receipt of a completed affidavit submitted by an applicant
613 and signed by an officer or general partner of the applicant
614 affirming:

615 (a) That the applicant has filed or will timely file with
616 the Federal Communications Commission all forms required by that
617 agency in advance of offering cable service in this state.

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618 (b) That the applicant agrees to comply with all
619 applicable federal and state laws and regulations, to the extent
620 that such state laws and rules are not in conflict with or
621 superseded by the provisions of this chapter or other applicable
622 state law.

623 (c) That the applicant agrees to comply with all lawful
624 state laws and rules and municipal and county ordinances and
625 regulations regarding the placement and maintenance of
626 communications facilities in the public right-of-way that are
627 generally applicable to providers of communications services in
628 accordance with s. 337.401.

629 (d) A description of the service area for which the
630 applicant seeks a certificate of franchise authority, which need
631 not be coextensive with municipal, county, or other political
632 boundaries.

633 (e) The location of the applicant's principal place of
634 business and the names of the applicant's principal executive
635 officers.

636 (f) That the applicant is authorized by the department to
637 transact business in this state.

638 (g) That the applicant has sufficient technical,
639 financial, and managerial capability to provide cable service
640 within the service area for which the applicant seeks a
641 certificate of franchise authority. At the time of the filing of
642 the affidavit, the applicant shall furnish its most recent
643 unqualified audited financial statement if a publicly available
644 audited financial report for the applicant or its parent entity
645 is not available.

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646 (h) That neither the applicant nor any of its current
647 principal executive officers are under indictment nor have been
648 convicted of a felony in this state.

649 (3) If the department fails to act on the application
650 within 30 business days after receiving the application, the
651 application shall have been deemed granted by the department
652 without further action.

653 (4) The certificate of franchise authority issued by the
654 department shall contain:

655 (a) A grant of authority to provide cable service over a
656 cable system as requested in the application.

657 (b) A grant of authority to construct, maintain, and
658 operate facilities through, upon, over, and under any public
659 right-of-way.

660 (c) A statement that the grant of authority is subject to
661 lawful operation of the cable system to provide cable service by
662 the applicant or its successor in interest.

663 (5) A certificateholder that seeks to include additional
664 service areas in its current certificate shall file notice with
665 the department that reflects the new service area or areas to be
666 served.

667 (6) The certificate of franchise authority issued by the
668 department is fully transferable to any successor in interest to
669 the applicant to which the certificate is initially granted. A
670 notice of transfer shall be filed with the department and the
671 relevant municipality or county within 14 business days
672 following the completion of such transfer.

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673 (7) The certificate of franchise authority issued by the
674 department may be terminated by the cable service provider by
675 submitting notice to the department.

676 (8) An applicant may challenge a denial of an application
677 by the department in a court of competent jurisdiction through a
678 petition for a writ of mandamus.

679 (9) The department may adopt any procedural rules and
680 regulations pursuant to ss. 120.536(1) and 120.54 necessary to
681 implement this section. Failure of an applicant to comply with
682 procedural rules and regulations adopted by the department to
683 implement this section shall not be a basis for denial of a
684 certificate if the affidavit is submitted before the department
685 adopts such procedural rules and regulations.

686 (10) The department may revoke an ordinance or statutory
687 certificate of franchise authority for any area as to which a
688 court of competent jurisdiction finds, pursuant to s. 610.117,
689 that a certificateholder is in noncompliance with the
690 requirements of this chapter after notice and a reasonable time
691 to cure the noncompliance.

692 (11) The department may establish a standard application
693 form and if such a form is created, applications shall be on
694 such form and must be accompanied by a one-time application fee
695 established by the department, not to exceed \$10,000. The fee
696 shall be based on the costs incurred by the department in
697 performing its duties under the provisions of ss. 610.102-
698 610.118.

699 (12) Beginning 3 years after approval of the
700 certificateholder's initial ordinance or statutory certificate
701 of franchise, and every 3 years thereafter, the

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702 certificateholder shall update the information contained in the
703 original application for a certificate of franchise. At the time
704 of the filing of the information update, the certificateholder
705 shall pay a processing fee, not to exceed \$1,000, for the costs
706 incurred by the department in the handling of the information
707 update.

708 (13) Beginning 10 years after approval of the
709 certificateholder's initial ordinance or statutory certificate
710 of franchise, and every 10 years thereafter, the
711 certificateholder shall file a renewal notice accompanied by an
712 affidavit that contains the information required by subsection
713 (4). At the time of the filing of the renewal notice, the
714 certificateholder shall pay a fee, not to exceed \$10,000,
715 established by the department. The certificateholder may elect
716 to renew any or all of its ordinance and statutory certificates
717 in a single filing with the department subject to a single
718 filing fee. The fee shall be based on the costs incurred by the
719 department in performing its duties under this subsection. Upon
720 receipt of the notice of renewal and payment of the fee, the
721 certificates shall be deemed automatically renewed unless the
722 department files a notice of deficiency within 30 days. The
723 certificateholder shall have 30 days to cure any deficiency in
724 its renewal notice. A deficiency with respect to a particular
725 municipality or county shall not affect the renewal of the
726 certificates with respect to any other service area.

727 610.109 Eligibility of incumbent cable provider for
728 ordinance or statutory certificate of franchise authority.--

729 (1) Except as provided in subsection (4), an incumbent
730 cable service provider that has an existing, unexpired franchise
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731 to provide cable service with respect to a municipality or
732 county as of July 1, 2006, is not eligible to seek an ordinance
733 or statutory certificate of franchise authority under this
734 chapter as to that municipality or county until the expiration
735 date of the existing franchise agreement.

736 (2) For purposes of this section, a cable service provider
737 will be deemed to have or have had a franchise to provide cable
738 service in a specific municipality or county if any affiliate or
739 successor entity of the cable service provider has or had a
740 franchise agreement granted by that specific municipality or
741 county.

742 (3) For purposes of this section, the term "affiliate or
743 successor entity" refers to an entity receiving, obtaining, or
744 operating under a franchise that directly or indirectly owns or
745 controls, is owned or controlled by, or is under common
746 ownership or control with the cable service provider.

747 (4) Notwithstanding subsection (1), a cable service
748 provider may elect to terminate an existing municipal or county
749 franchise and seek an ordinance or statutory certificate of
750 franchise authority with respect to such municipality or county
751 on January 1, 2007, or the date on which such municipality or
752 county adopts a standard ordinance pursuant to s. 610.104,
753 whichever is earlier. The cable service provider may terminate
754 its existing franchise under this subsection by providing
755 written notice to the Secretary of State and the affected
756 municipality or county within 180 days following the issuance of
757 the ordinance or statutory certificate of franchise authority to
758 the nonincumbent cable service provider. The municipal or county
759 franchise is terminated on the date the ordinance or statutory

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760 certificate of franchise authority is granted with respect to
761 such municipality or county to the cable service provider.

762 610.110 Franchise fee prohibited.--Except as otherwise
763 provided in this chapter, the department may not impose any
764 taxes, fees, charges, or other impositions on a cable service
765 provider as a condition for the issuance of an ordinance or
766 statutory certificate of franchise authority. Except as
767 otherwise provided in this chapter, no municipality or county
768 may impose any taxes, fees, charges, or other exactions on
769 certificateholders in connection with use of public right-of-way
770 as a condition of a certificateholder doing business in the
771 municipality or county, or otherwise, except such taxes, fees,
772 charges, or other exactions permitted by chapter 202, s.
773 337.401(6), and this chapter.

774 610.111 Buildout.--Except as otherwise provided in s.
775 610.1075(3), no franchise authority, state agency, or political
776 subdivision may impose any buildout requirements on a
777 certificateholder. However, each certificateholder, if requested
778 pursuant to a bona fide order for cable service, shall make
779 cable service available at each building used for municipal or
780 county purposes, including, but not limited to, emergency
781 operations centers, fire stations, and public schools within the
782 area described in its application under s. 610.108(2)(d), as
783 applicable, within 5 years after the date of the issuance of its
784 certificate by the department, using the technology of its
785 choice.

786 610.112 Customer service standards.--

787 (1) An incumbent cable service provider shall comply with
788 customer service requirements reasonably comparable to, and that

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789 do not exceed, the standards in 47 C.F.R. s. 76.309(c) until
790 there are two or more providers offering service, excluding
791 direct-to-home satellite service, in the relevant service area.

792 (2) The Department of Agriculture and Consumer Services
793 shall receive service quality complaints from customers of a
794 statutory certificateholder. The Department of Agriculture and
795 Consumer Services may adopt any procedural rules pursuant to ss.
796 120.536(1) and 120.54 necessary to implement this section.

797 (3) The Department of Agriculture and Consumer Services
798 shall address customer service complaints expeditiously by
799 assisting with the resolution of such complaints between the
800 complainant and the certificateholder.

801 610.113 Public, educational, and governmental access
802 channels.--

803 (1) A certificateholder, not later than 180 days following
804 a request by a municipality or county within whose jurisdiction
805 the certificateholder is providing cable service, shall
806 designate a sufficient amount of capacity on its network to
807 allow the provision of public, educational, and governmental
808 access channels for noncommercial programming as set forth in
809 this section and in a municipal or county franchise pursuant to
810 s. 610.1075(1).

811 (2) A certificateholder shall designate a sufficient
812 amount of capacity on its network to allow the provision of a
813 comparable number of public, educational, and governmental
814 access channels or capacity equivalent that a municipality or
815 county has activated under the incumbent cable service
816 provider's franchise agreement as of July 1, 2006, or the number
817 of channels or capacity set forth in paragraphs (3)(a) and (b),

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818 whichever is greater. For the purposes of this section, a
819 public, educational, or governmental channel is deemed activated
820 if the channel is being used for public, educational, or
821 governmental programming within the municipality or county for
822 at least 4 hours per day. The municipality or county may request
823 additional channels or capacity up to the equivalent permitted
824 under the incumbent cable service provider's franchise agreement
825 as of January 1, 2006, upon a showing that active channels are
826 substantially used, as set forth in subsection (5). Except as
827 provided in subsections (3)-(5), the certificateholder's
828 obligations under this subsection continue regardless of whether
829 the incumbent cable service provider, subsequent to July 1,
830 2006, becomes a certificateholder pursuant to this chapter.

831 (3) If a municipality or county did not have public,
832 educational, or governmental access channels activated under the
833 incumbent cable service provider's franchise agreement as of
834 July 1, 2006, not later than 180 days following a request by the
835 municipality or county within whose jurisdiction a
836 certificateholder is providing cable service, the cable service
837 provider shall furnish:

838 (a) Up to three public, educational, or governmental
839 channels or capacity equivalent for a municipality or county
840 with a population of at least 50,000.

841 (b) Up to two public, educational, or governmental
842 channels or capacity equivalent for a municipality or county
843 with a population of less than 50,000.

844 (4) Any public, educational, or governmental channel
845 provided pursuant to this section that, within 6 months after it
846 is initially provided, is not used by the municipality or county
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847 for at least 10 hours a day shall no longer be made available to
848 the municipality or county but may be programmed at the cable
849 service provider's discretion. At such time as the municipality
850 or county can certify to the cable service provider a schedule
851 for at least 10 hours of daily programming, the cable service
852 provider shall restore the previously lost channel but shall be
853 under no obligation to carry that channel on a basic or analog
854 tier.

855 (5) If a municipality or county has not used the number of
856 access channels or capacity equivalent permitted by subsection
857 (2) or subsection (3), access to the additional channels or
858 capacity equivalent allowed in subsection (2) or subsection (3)
859 shall be provided upon 180 days' written notice if the
860 municipality or county meets the following standard:

861 (a) If a municipality or county has one active public,
862 educational, or governmental channel and wishes to activate an
863 additional public, educational, or governmental channel, the
864 initial channel shall be considered to be substantially used
865 when 12 hours are programmed on that channel each calendar day.
866 In addition, at least 40 percent of the 12 hours of programming
867 for each business day on average over each calendar quarter must
868 be nonrepeat programming. Nonrepeat programming shall include
869 the first three videocastings of a program.

870 (b) If a municipality or county is entitled to three
871 public, educational, or governmental channels under subsection
872 (3) and has in service two active public, educational, or
873 governmental channels, each of the two active channels shall be
874 considered to be substantially used when 12 hours are programmed
875 on each channel each calendar day and at least 50 percent of the

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876 12 hours of programming for each business day on average over
877 each calendar quarter is nonrepeat programming for three
878 consecutive calendar quarters.

879 (6) The operation of any public, educational, or
880 governmental access channel or capacity equivalent provided
881 under this section shall be the responsibility of the
882 municipality or county receiving the benefit of such channel or
883 capacity equivalent, and a certificateholder bears only the
884 responsibility for the transmission of such channel content. A
885 certificateholder shall be responsible for providing the
886 connectivity to each public, educational, or governmental access
887 channel distribution point up to the first 200 feet.

888 (7) The municipality or county shall ensure that all
889 transmissions, content, or programming to be transmitted over a
890 channel or facility by a certificateholder are provided or
891 submitted to the cable service provider in a manner or form that
892 is capable of being accepted and transmitted by a provider
893 without any requirement for additional alteration or change in
894 the content by the provider over the provider's network and is
895 compatible with the technology or protocol used by the cable
896 service provider to deliver services. The provision of public,
897 educational, or governmental content to the provider constitutes
898 authorization for the provider to carry such content, including,
899 at the provider's option, authorization to carry the content
900 beyond the jurisdictional boundaries of the municipality or
901 county.

902 (8) Where technically feasible, a certificateholder and an
903 incumbent cable service provider shall use reasonable efforts to
904 interconnect their cable systems for the purpose of providing

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905 public, educational, and governmental programming.
906 Interconnection may be accomplished by direct cable, microwave
907 link, satellite, or other reasonable method of connection.
908 Certificateholders and incumbent cable service providers shall
909 negotiate in good faith and incumbent cable service providers
910 may not withhold interconnection of public, educational, and
911 governmental channels.

912 (9) A certificateholder is not required to interconnect
913 for, or otherwise transmit, public, educational, and
914 governmental content that is branded with the logo, name, or
915 other identifying marks of another cable service provider, and a
916 municipality or county may require a cable service provider to
917 remove its logo, name, or other identifying marks from public,
918 educational, and governmental content that is to be made
919 available to another provider.

920 (10) A court of competent jurisdiction shall have
921 exclusive jurisdiction to enforce any requirement under this
922 section.

923 (11) In support of the capital costs incurred by the
924 municipality or county in connection with the construction or
925 operation of public, educational, or governmental access
926 facilities and content provided by a municipality or county
927 pursuant to this section, the certificateholder shall pay to the
928 municipality or county 1 percent of the certificateholder's
929 sales price, as defined in s. 202.11(13), for the retail sale of
930 cable services provided to customers located within the
931 respective municipal or county boundaries, based upon the
932 certificateholder's books and records, for a period of 2 years
933 after the date the department issues a certificate to the

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934 certificateholder. After the expiration of the 2-year period,
935 the certificateholder shall pay and the municipality or county
936 shall continue to receive up to 1 percent of such sales price in
937 support of the capital costs incurred by the municipality or
938 county in connection with the construction or operation of
939 public, educational, or governmental access facilities and
940 content provided by the municipality or county only if the
941 governing body of the municipality or county affirmatively
942 approves such continued payment. Upon such affirmative vote of
943 approval, the certificateholder may recover from the customer
944 its costs of the payment through a separately stated charge on
945 the customer's bill. All payments made pursuant to this
946 subsection shall be made in the same manner as, and as a part
947 of, the certificateholder's payment of communications services
948 tax pursuant to s. 202.27, and all definitions, exemptions, and
949 administrative provisions of chapter 202 shall apply to such
950 payments.

951 610.114 Nondiscrimination by municipality or county.--

952 (1) A municipality or county shall allow a
953 certificateholder to install, construct, and maintain a network
954 within a public right-of-way and shall provide a
955 certificateholder with nondiscriminatory and competitively
956 neutral access to the public right-of-way in accordance with the
957 provisions of s. 337.401. All use of a public right-of-way by a
958 certificateholder is nonexclusive.

959 (2) A municipality or county may not discriminate against
960 a certificateholder regarding:

961 (a) The authorization or placement of a network in a
962 public right-of-way;

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963 (b) Access to a building or other property; or

964 (c) Utility pole attachment terms.

965 (3) Except as expressly provided in this chapter, nothing
966 contained in this chapter shall be construed to limit or
967 abrogate the municipality's or county's authority over the use
968 of public right-of-way under its jurisdiction, as set forth in
969 s. 337.401(3) (a).

970 610.115 Limitation on local authority.--

971 (1) A municipality or county may not impose additional
972 requirements on a certificateholder, including, but not limited
973 to, financial, operational, and administrative requirements,
974 except as expressly permitted by this chapter. A municipality or
975 county may not impose on activities of a certificateholder a
976 requirement:

977 (a) That particular business offices be located in the
978 municipality or county;

979 (b) Regarding the filing of reports and documents with the
980 municipality or county that are not required by state or federal
981 law and that are not related to the use of the public right-of-
982 way. Reports and documents other than schematics indicating the
983 location of facilities for a specific site that are provided in
984 the normal course of the municipality's or county's permitting
985 process, that are authorized by s. 337.401 for communications
986 services providers, or that are otherwise required in the normal
987 course of such permitting process shall not be considered
988 related to the use of the public right-of-way for communications
989 services providers. A municipality or county may not request
990 information concerning the capacity or technical configuration
991 of a certificateholder's facilities;

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992 (c) For the inspection of a certificateholder's business
993 records; or

994 (d) For the approval of transfers of ownership or control
995 of a certificateholder's business, except a municipality or
996 county may require a certificateholder to provide notice of a
997 transfer within a reasonable time.

998 (2) Notwithstanding any other provision of law, a
999 municipality or county may require the issuance of a permit in
1000 accordance with and subject to s. 337.401 to a certificateholder
1001 that is placing and maintaining facilities in or on a public
1002 right-of-way in the municipality or county. In accordance with
1003 s. 337.402, the permit may require the permitholder to be
1004 responsible, at the permitholder's expense, for any damage
1005 resulting from the issuance of such permit and for restoring the
1006 public right-of-way to a substantially similar condition to that
1007 of the public right-of-way before installation of such
1008 facilities. The terms of the permit shall be consistent with
1009 construction permits issued to other providers of communications
1010 services placing or maintaining communications facilities in a
1011 public right-of-way.

1012 610.116 Discrimination prohibited.--

1013 (1) The purpose of this section is to prevent
1014 discrimination among potential residential subscribers.

1015 (2) Pursuant to 47 U.S.C. s. 541(a)(3), a
1016 certificateholder may not deny access to service to any group of
1017 potential residential subscribers because of the income of the
1018 residents in the local area in which such group resides.

1019 (3) An affected person may seek enforcement of the
1020 requirements provided by subsection (2) by initiating a
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1021 proceeding with the Department of Agriculture and Consumer
1022 Services pursuant to s. 570.544.

1023 (4) For purposes of determining whether a
1024 certificateholder has violated subsection (2), cost, density,
1025 distance, and technological or commercial limitations shall be
1026 taken into account, and the certificateholder shall have a
1027 reasonable time to deploy service pursuant to 47 U.S.C. s.
1028 541(a)(4)(A). Use of an alternative technology that provides
1029 comparable content, service, and functionality may not be
1030 considered a violation of subsection (2). The inability to serve
1031 an end user because a certificateholder is prohibited from
1032 placing its own facilities in a building or property is not a
1033 violation of subsection (2). This section may not be construed
1034 to authorize any buildout requirements on a certificateholder.

1035 (5) The Department of Agriculture and Consumer Services
1036 may adopt any procedural rules pursuant to ss. 120.536(1) and
1037 120.54 necessary to implement this section.

1038 610.117 Compliance.--If a certificateholder is found by a
1039 court of competent jurisdiction to not comply with the
1040 requirements of this chapter, the certificateholder shall have a
1041 reasonable period of time, as specified by the court, to cure
1042 such noncompliance.

1043 610.118 Applicability to competitive video programming
1044 services.--A provider of competitive video programming services
1045 shall apply for and obtain an ordinance or statutory certificate
1046 of franchise authority under ss. 610.102-610.118, including all
1047 rights and obligations associated therewith, before providing
1048 service in the state, notwithstanding that competitive video
1049 programming service is not a cable service as defined s.

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1050 610.103. For purposes of ss. 610.102-610.118, the term
1051 "competitive video programming services" means video programming
1052 provided through wireline facilities located at least in part of
1053 the public right-of-way without regard to delivery technology,
1054 including Internet protocol technology, provided that this
1055 definition does not include any video programming provided by a
1056 cable service operator; any video programming provided via an
1057 Internet access service, as that term is defined in 47 U.S.C. s.
1058 231(e)(4); or any video programming service provided by a
1059 commercial mobile service provider defined in 47 U.S.C. s.
1060 322(b).

1061 Section 6. Reports to the Legislature.--On December 1,
1062 2009, the Office of Program Policy Analysis and Governmental
1063 Accountability shall submit to the President of the Senate, the
1064 Speaker of the House of Representatives, and the majority and
1065 minority leaders of the Senate and House of Representatives a
1066 report on the status of competition in the cable service
1067 industry, including, by each municipality and county, the number
1068 of cable service providers, the number of cable subscribers
1069 served, the number of areas served by fewer than two cable
1070 service providers, the trend in cable prices, and the
1071 identification of any patterns of service as they impact
1072 demographic and income groups.

1073 Section 7. Severability.--If any provision of ss. 610.102-
1074 610.118, Florida Statutes, or the application thereof to any
1075 person or circumstance is held invalid, such invalidity shall
1076 not affect other provisions or applications of ss. 610.102-
1077 610.118, Florida Statutes, that can be given effect without the

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1078 invalid provision or application, and to this end the provisions
1079 of ss. 610.102-610.118, Florida Statutes, are severable.

1080 Section 8. Section 166.046, Florida Statutes, is repealed.

1081 Section 9. Paragraph (a) of subsection (3) of section
1082 350.81, Florida Statutes, is amended to read:

1083 350.81 Communications services offered by governmental
1084 entities.--

1085 (3) (a) A governmental entity that provides a cable service
1086 shall comply with the Cable Communications Policy Act of 1984,
1087 47 U.S.C. ss. 521 et seq., the regulations issued by the Federal
1088 Communications Commission under the Cable Communications Policy
1089 Act of 1984, 47 U.S.C. ss. 521 et seq., and all applicable state
1090 and federal rules and regulations, including, but not limited
1091 to, ~~s. 166.046~~ and those provisions of chapters 202, 212, and
1092 337, and 610 which apply to a provider of the services.

1093 Section 10. Section 364.0361, Florida Statutes, is amended
1094 to read:

1095 364.0361 Local government authority; nondiscriminatory
1096 exercise.--A local government shall treat each
1097 telecommunications company in a nondiscriminatory manner when
1098 exercising its authority to grant franchises to a
1099 telecommunications company or to otherwise establish conditions
1100 or compensation for the use of rights-of-way or other public
1101 property by a telecommunications company. A local government may
1102 not directly or indirectly regulate the terms and conditions,
1103 including, but not limited to, the operating systems,
1104 qualifications, services, service quality, service territory,
1105 and prices, applicable to or in connection with the provision of
1106 any voice-over-Internet protocol, regardless of the platform,
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1107 provider, or protocol, broadband or information service. This
1108 section does not relieve a provider from any obligations under
1109 ~~s. 166.046~~ or s. 337.401.

1110 Section 11. This act shall take effect July 1, 2006.

1111

1112 ===== T I T L E A M E N D M E N T =====

1113 Remove the entire title and insert:

1114 A bill to be entitled

1115 An act relating to statewide cable television franchises;
1116 providing a short title; amending s. 202.24, F.S.;
1117 prohibiting counties and municipalities from negotiating
1118 terms and conditions relating to cable services; deleting
1119 authorization to negotiate; revising application to
1120 existing ordinances or franchise agreements; amending s.
1121 337.401, F.S.; deleting authorization for counties and
1122 municipalities to award cable service franchises and a
1123 restriction that cable service companies not operate
1124 without such a franchise; amending s. 337.4061, F.S.;
1125 revising definitions; creating ss. 610.102, 610.103,
1126 610.104, 610.105, 610.107, 610.1075, 610.108, 610.109,
1127 610.110, 610.111, 610.112, 610.113, 610.114, 610.115,
1128 610.116, 610.117, and 610.118, F.S.; designating the
1129 Department of State as the authorizing authority;
1130 providing definitions; requiring state authorization to
1131 provide cable services and competitive video programming
1132 services; providing requirements and procedures; providing
1133 for fees; providing duties and responsibilities of the
1134 Department of State; providing application procedures and
1135 requirements; providing for issuing certificates of

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1136 franchise authority; providing eligibility requirements
1137 and criteria for a certificate; authorizing the department
1138 to adopt rules; providing for an application form;
1139 providing for fees; prohibiting the department from
1140 imposing taxes, fees, or charges on a cable service
1141 provider to issue a certificate; prohibiting imposing
1142 buildout requirements on a certificateholder; requiring
1143 certificateholders to make cable service available at
1144 certain public buildings under certain circumstances;
1145 imposing certain customer service requirements on cable
1146 service providers; requiring the Department of Agriculture
1147 and Consumer Services to receive customer service
1148 complaints; requiring provision of public, educational,
1149 and governmental access channels or capacity equivalent;
1150 providing criteria, requirements, and procedures;
1151 providing exceptions; providing responsibilities of
1152 municipalities and counties relating to such channels;
1153 providing for enforcement; requiring certificateholders to
1154 pay a portion of certain monthly revenues to
1155 municipalities or counties for a certain period of time;
1156 providing for continuing such payments pursuant to local
1157 government approval; authorizing continued payments to be
1158 itemized; providing criteria for such payments; providing
1159 requirements for and limitations on counties and
1160 municipalities relating to access to public right-of-way;
1161 prohibiting counties and municipalities from imposing
1162 additional requirements on certificateholders; authorizing
1163 counties and municipalities to require permits of
1164 certificateholders relating to public right-of-way;

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1165 providing permit criteria and requirements; prohibiting
1166 discrimination between cable service subscribers;
1167 providing for enforcement; providing for determinations of
1168 violations; providing for enforcement of compliance by
1169 certificateholders; requiring the Office of Program Policy
1170 Analysis and Government Accountability to report to the
1171 Legislature on the status of competition in the cable
1172 service industry; providing applicability to competitive
1173 video programming services; providing report requirements;
1174 providing severability; repealing s. 166.046, F.S.,
1175 relating to definitions and minimum standards for cable
1176 television franchises imposed upon counties and
1177 municipalities; amending ss. 350.81 and 364.0361, F.S.;
1178 conforming cross-references; providing an effective date.