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## CHAMBER ACTION

1 The Utilities & Telecommunications Committee recommends the  
2 following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to statewide cable television franchises;  
8 providing a short title; amending s. 202.24, F.S.;  
9 prohibiting counties and municipalities from negotiating  
10 terms and conditions relating to cable services; deleting  
11 authorization to negotiate; revising application to  
12 existing ordinances or franchise agreements; amending s.  
13 337.401, F.S.; deleting authorization for counties and  
14 municipalities to award cable service franchises and a  
15 restriction that cable service companies not operate  
16 without such a franchise; amending s. 337.4061, F.S.;  
17 revising definitions; creating ss. 610.102, 610.103,  
18 610.104, 610.105, 610.106, 610.107, 610.108, 610.109,  
19 610.110, 610.112, 610.113, 610.114, 610.115, 610.116, and  
20 610.117, F.S.; designating the Department of State as the  
21 authorizing authority; providing definitions; requiring  
22 state authorization to provide cable services; providing  
23 duties and responsibilities of the Department of State;

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24 providing application procedures and requirements;  
25 providing for issuing certificates of franchise authority;  
26 providing eligibility requirements and criteria for a  
27 certificate; authorizing the department to adopt rules;  
28 providing for an application form and fee; prohibiting the  
29 department from imposing taxes, fees, or charges on a  
30 cable service provider to issue a certificate; prohibiting  
31 imposing buildout requirements on a certificateholder;  
32 imposing certain customer service requirements on cable  
33 service providers; requiring the Department of Agriculture  
34 and Consumer Services to receive customer service  
35 complaints; requiring provision of public, educational,  
36 and governmental access channels or capacity equivalent;  
37 providing criteria, requirements, and procedures;  
38 providing exceptions; providing responsibilities of  
39 municipalities and counties relating to such channels;  
40 providing for enforcement; providing requirements for and  
41 limitations on counties and municipalities relating to  
42 access to public right-of-way; prohibiting counties and  
43 municipalities from imposing additional requirements on  
44 certificateholders; authorizing counties and  
45 municipalities to require permits of certificateholders  
46 relating to public right-of-way; providing permit criteria  
47 and requirements; prohibiting discrimination between cable  
48 service subscribers; providing for enforcement; providing  
49 for determinations of violations; providing for  
50 enforcement of compliance by certificateholders; providing  
51 for applicability of other laws; requiring the Office of

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52 | Program Policy Analysis and Government Accountability to  
 53 | report to the Legislature on the status of competition in  
 54 | the cable service industry; providing report requirements;  
 55 | providing severability; repealing s. 166.046, F.S.,  
 56 | relating to definitions and minimum standards for cable  
 57 | television franchises imposed upon counties and  
 58 | municipalities; amending ss. 350.81 and 364.0361, F.S.;  
 59 | removing cross-references to conform; providing an  
 60 | effective date.

61

62 | Be It Enacted by the Legislature of the State of Florida:

63

64 | Section 1. This act may be cited as the "Consumer Choice  
 65 | Act of 2006."

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

68 | 202.24 Limitations on local taxes and fees imposed on  
 69 | dealers of communications services.--

70 | (2)(a) Except as provided in paragraph (c), each public  
 71 | body is prohibited from:

72 | 1. Levying on or collecting from dealers or purchasers of  
 73 | communications services any tax, charge, fee, or other  
 74 | imposition on or with respect to the provision or purchase of  
 75 | communications services.

76 | 2. Requiring any dealer of communications services to  
 77 | enter into or extend the term of a franchise or other agreement  
 78 | that requires the payment of a tax, charge, fee, or other  
 79 | imposition.

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80           3. Adopting or enforcing any provision of any ordinance or  
81 agreement to the extent that such provision obligates a dealer  
82 of communications services to charge, collect, or pay to the  
83 public body a tax, charge, fee, or other imposition.

84  
85 Municipalities and counties may not negotiate ~~Each municipality~~  
86 ~~and county retains authority to negotiate all terms and~~  
87 ~~conditions of a cable service franchise allowed by federal and~~  
88 ~~state law except these~~ terms and conditions related to franchise  
89 fees or ~~and~~ the definition of gross revenues or other  
90 definitions or methodologies related to the payment or  
91 assessment of franchise fees on providers of cable services.

92           (c) This subsection does not apply to:

93           1. Local communications services taxes levied under this  
94 chapter.

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

96           3. Occupational license taxes levied under chapter 205.

97           4. "911" service charges levied under chapter 365.

98           5. Amounts charged for the rental or other use of property  
99 owned by a public body which is not in the public rights-of-way  
100 to a dealer of communications services for any purpose,  
101 including, but not limited to, the placement or attachment of  
102 equipment used in the provision of communications services.

103           6. Permit fees of general applicability which are not  
104 related to placing or maintaining facilities in or on public  
105 roads or rights-of-way.

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106           7. Permit fees related to placing or maintaining  
107 facilities in or on public roads or rights-of-way pursuant to s.  
108 337.401.

109           8. Any in-kind requirements, institutional networks, or  
110 contributions for, or in support of, the use or construction of  
111 public, educational, or governmental access facilities allowed  
112 under federal law and imposed on providers of cable service  
113 pursuant to any existing ordinance or an existing franchise  
114 agreement granted by each municipality or county, under which  
115 ordinance or franchise agreement service is provided prior to  
116 July 1, 2006. Nothing in this subparagraph shall prohibit the  
117 ability of providers of cable service to recover such expenses  
118 as allowed under federal law.

119           9. Special assessments and impact fees.

120           10. Pole attachment fees that are charged by a local  
121 government for attachments to utility poles owned by the local  
122 government.

123           11. Utility service fees or other similar user fees for  
124 utility services.

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

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

131           337.401 Use of right-of-way for utilities subject to  
132 regulation; permit; fees.--

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133           (3) (a) ~~1-~~ Because of the unique circumstances applicable to  
134 providers of communications services, including, but not limited  
135 to, the circumstances described in paragraph (e) and the fact  
136 that federal and state law require the nondiscriminatory  
137 treatment of providers of telecommunications services, and  
138 because of the desire to promote competition among providers of  
139 communications services, it is the intent of the Legislature  
140 that municipalities and counties treat providers of  
141 communications services in a nondiscriminatory and competitively  
142 neutral manner when imposing rules or regulations governing the  
143 placement or maintenance of communications facilities in the  
144 public roads or rights-of-way. Rules or regulations imposed by a  
145 municipality or county relating to providers of communications  
146 services placing or maintaining communications facilities in its  
147 roads or rights-of-way must be generally applicable to all  
148 providers of communications services and, notwithstanding any  
149 other law, may not require a provider of communications  
150 services, ~~except as otherwise provided in subparagraph 2.,~~ to  
151 apply for or enter into an individual license, franchise, or  
152 other agreement with the municipality or county as a condition  
153 of placing or maintaining communications facilities in its roads  
154 or rights-of-way. In addition to other reasonable rules or  
155 regulations that a municipality or county may adopt relating to  
156 the placement or maintenance of communications facilities in its  
157 roads or rights-of-way under this subsection, a municipality or  
158 county may require a provider of communications services that  
159 places or seeks to place facilities in its roads or rights-of-  
160 way to register with the municipality or county and to provide

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161 the name of the registrant; the name, address, and telephone  
162 number of a contact person for the registrant; the number of the  
163 registrant's current certificate of authorization issued by the  
164 Florida Public Service Commission, ~~or~~ the Federal Communications  
165 Commission, or the Florida Department of State; and proof of  
166 insurance or self-insuring status adequate to defend and cover  
167 claims.

168 ~~2. Notwithstanding the provisions of subparagraph 1., a~~  
169 ~~municipality or county may, as provided by 47 U.S.C. s. 541,~~  
170 ~~award one or more franchises within its jurisdiction for the~~  
171 ~~provision of cable service, and a provider of cable service~~  
172 ~~shall not provide cable service without such franchise. Each~~  
173 ~~municipality and county retains authority to negotiate all terms~~  
174 ~~and conditions of a cable service franchise allowed by federal~~  
175 ~~law and s. 166.046, except those terms and conditions related to~~  
176 ~~franchise fees and the definition of gross revenues or other~~  
177 ~~definitions or methodologies related to the payment or~~  
178 ~~assessment of franchise fees and permit fees as provided in~~  
179 ~~paragraph (c) on providers of cable services. A municipality or~~  
180 ~~county may exercise its right to require from providers of cable~~  
181 ~~service in kind requirements, including, but not limited to,~~  
182 ~~institutional networks, and contributions for, or in support of,~~  
183 ~~the use or construction of public, educational, or governmental~~  
184 ~~access facilities to the extent permitted by federal law. A~~  
185 ~~provider of cable service may exercise its right to recover any~~  
186 ~~such expenses associated with such in kind requirements, to the~~  
187 ~~extent permitted by federal law.~~

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188 (e) The authority of municipalities and counties to  
189 require franchise fees from providers of communications  
190 services, with respect to the provision of communications  
191 services, is specifically preempted by the state, ~~except as~~  
192 ~~otherwise provided in subparagraph (a)2.~~, because of unique  
193 circumstances applicable to providers of communications services  
194 when compared to other utilities occupying municipal or county  
195 roads or rights-of-way. Providers of communications services may  
196 provide similar services in a manner that requires the placement  
197 of facilities in municipal or county roads or rights-of-way or  
198 in a manner that does not require the placement of facilities in  
199 such roads or rights-of-way. Although similar communications  
200 services may be provided by different means, the state desires  
201 to treat providers of communications services in a  
202 nondiscriminatory manner and to have the taxes, franchise fees,  
203 and other fees paid by providers of communications services be  
204 competitively neutral. Municipalities and counties retain all  
205 existing authority, if any, to collect franchise fees from users  
206 or occupants of municipal or county roads or rights-of-way other  
207 than providers of communications services, and the provisions of  
208 this subsection shall have no effect upon this authority. The  
209 provisions of this subsection do not restrict the authority, if  
210 any, of municipalities or counties or other governmental  
211 entities to receive reasonable rental fees based on fair market  
212 value for the use of public lands and buildings on property  
213 outside the public roads or rights-of-way for the placement of  
214 communications antennas and towers.



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215 (f) Except as expressly allowed or authorized by general  
 216 law and except for the rights-of-way permit fees subject to  
 217 paragraph (c), a municipality or county may not levy on a  
 218 provider of communications services a tax, fee, or other charge  
 219 or imposition for operating as a provider of communications  
 220 services within the jurisdiction of the municipality or county  
 221 which is in any way related to using its roads or rights-of-way.  
 222 A municipality or county may not require or solicit in-kind  
 223 compensation, except as otherwise provided in s. 202.24(2)(c)8.  
 224 or s. 610.109 ~~subparagraph (a)2.~~ Nothing in this paragraph shall  
 225 impair any ordinance or agreement in effect on May 22, 1998, or  
 226 any voluntary agreement entered into subsequent to that date,  
 227 which provides for or allows in-kind compensation by a  
 228 telecommunications company.

229 Section 4. Section 337.4061, Florida Statutes, is amended  
 230 to read:

231 337.4061 Definitions; unlawful use of state-maintained  
 232 road right-of-way by nonfranchised cable ~~television~~ services.--

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

234 (a) "Cable service" means:

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

237 2. Subscriber interaction, if any, which is required for  
 238 the selection of such video programming or other programming  
 239 service.

240 (b) "Cable system" means a facility, consisting of a set  
 241 of closed transmission paths and associated signal generation,  
 242 reception, and control equipment that is designed to provide

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243 cable service which includes video programming and which is  
244 provided to multiple subscribers within a community, but such  
245 term does not include:

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

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

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

254 4.3- A facility of a common carrier that is subject, in  
255 whole or in part, to the provisions of 47 U.S.C. s. 201 et seq.,  
256 except the specific bandwidths or wavelengths used by that such  
257 facility shall be considered a cable system only to the extent  
258 such bandwidths or wavelengths are facility is used in the  
259 transmission of video programming directly to subscribers,  
260 unless the extent of such use is solely to provide interactive  
261 on-demand services, in which case the use of such bandwidths or  
262 wavelengths is not a cable system; or

263 5.4- Any facilities of any electric utility used solely  
264 for operating its electric utility systems.

265 (c) "Franchise" means an initial authorization or renewal  
266 thereof issued by a franchising authority, whether such  
267 authorization is designated as a franchise, permit, license,  
268 resolution, contract, certificate, agreement, or otherwise,  
269 which authorizes the construction or operation of a cable  
270 system.

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

273 (e) "Person" means an individual, partnership,  
274 association, joint stock company, trust, corporation, or  
275 governmental entity.

276 (f) "Video programming" means programming provided by or  
277 generally considered comparable to programming provided by a  
278 television broadcast station or cable system.

279 (2) It is unlawful to use the right-of-way of any state-  
280 maintained road, including appendages thereto, and also  
281 including, but not limited to, rest areas, wayside parks, boat-  
282 launching ramps, weigh stations, and scenic easements, to  
283 provide for cable service over a cable system ~~purposes~~ within a  
284 geographic area subject to a valid existing franchise for cable  
285 service, unless the cable system using such right-of-way holds a  
286 franchise from a franchise authority ~~the municipality or county~~  
287 for the area in which the right-of-way is located.

288 (3) A violation of this section shall be deemed a  
289 violation of s. 337.406.

290 Section 5. Sections 610.102, 610.103, 610.104, 610.105,  
291 610.106, 610.107, 610.108, 610.109, 610.110, 610.112, 610.113,  
292 610.114, 610.115, 610.116, and 610.117, Florida Statutes, are  
293 created to read:

294 610.102 Department of State authority to issue statewide  
295 cable franchise.--The department shall be designated as the  
296 franchising authority, pursuant to 47 U.S.C. s. 522(10), for a  
297 state-issued franchise for the provision of cable service. A

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298 | municipality or county may not grant a new franchise for the  
 299 | provision of cable service within its jurisdiction.

300 | 610.103 Definitions.--As used in ss. 610.102-610.115:

301 | (1) "Cable service" means:

302 | (a) The one-way transmission to subscribers of video  
 303 | programming or any other programming service.

304 | (b) Subscriber interaction, if any, that is required for  
 305 | the selection of such video programming or other programming  
 306 | service.

307 | (2) "Cable system" means a facility consisting of a set of  
 308 | closed transmission paths and associated signal generation,  
 309 | reception, and control equipment that is designed to provide  
 310 | cable service that includes video programming and that is  
 311 | provided to multiple subscribers within a community, but such  
 312 | term does not include:

313 | (a) A facility that serves only to retransmit the  
 314 | television signals of one or more television broadcast stations;

315 | (b) A facility that serves only subscribers in one or more  
 316 | multiple-unit dwellings under common ownership, control, or  
 317 | management, unless such facility or facilities use any public  
 318 | right-of-way;

319 | (c) A facility that serves subscribers without using any  
 320 | public right-of-way;

321 | (d) A facility of a common carrier that is subject, in  
 322 | whole or in part, to the provisions of 47 U.S.C. s. 201 et seq.,  
 323 | except the specific bandwidths or wavelengths over such facility  
 324 | shall be considered a cable system only to the extent such  
 325 | bandwidths or wavelengths are used in the transmission of video

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326 programming directly to subscribers, unless the extent of such  
327 use is solely to provide interactive on-demand services, in  
328 which case it is not a cable system; or

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

331 (3) "Cable service provider" means a person that provides  
332 cable service over a cable system.

333 (4) "Certificateholder" means a cable service provider  
334 that has been issued and holds a certificate of franchise  
335 authority from the department.

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

337 (6) "Franchise" means an initial authorization or renewal  
338 of an authorization, regardless of whether the authorization is  
339 designated as a franchise, permit, license, resolution,  
340 contract, certificate, agreement, or otherwise, to construct and  
341 operate a cable system in the public right-of-way.

342 (7) "Franchise authority" means any governmental entity  
343 empowered by federal, state, or local law to grant a franchise.

344 (8) "Incumbent cable service provider" means the cable  
345 service provider serving the largest number of cable subscribers  
346 in a particular municipal or county franchise area on July 1,  
347 2006.

348 (9) "Public right-of-way" means the area on, below, or  
349 above a public roadway, highway, street, sidewalk, alley, or  
350 waterway, including, without limitation, a municipal, county,  
351 state, district, or other public roadway, highway, street,  
352 sidewalk, alley, or waterway.

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353       (10) "Video programming" means programming provided by, or  
354 generally considered comparable to programming provided by, a  
355 television broadcast station as set forth in 47 U.S.C. s.  
356 522(20).

357       610.104 State authorization to provide cable service.--

358       (1) An entity or person seeking to provide cable service  
359 over a cable system in this state after July 1, 2006, shall file  
360 an application for a state-issued certificate of franchise  
361 authority with the department as required by this section. An  
362 entity providing cable service under an unexpired franchise  
363 agreement with a municipality or county as of July 1, 2006, is  
364 not subject to this subsection with respect to such municipality  
365 or county until the franchise agreement expires, except as  
366 provided by subsection (2) and s. 610.105(4). An entity  
367 providing cable service may seek authorization from the  
368 department to provide service in areas where the entity  
369 currently does not have an existing franchise agreement as of  
370 July 1, 2006.

371       (2) Beginning 90 days after July 1, 2006, a cable service  
372 provider that is not an incumbent cable service provider and  
373 provides cable service to less than 40 percent of the total  
374 cable service subscribers in a particular franchise area may  
375 elect to terminate an existing municipal or county franchise and  
376 seek a state-issued certificate of franchise authority by  
377 providing written notice to the Secretary of State and the  
378 affected municipality or county not later than 180 days after  
379 July 1, 2006. The municipal or county franchise is terminated on

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380 the date the department issues the state-issued certificate of  
381 franchise authority.

382 (3) Before the 10th business day after an applicant  
383 submits the affidavit, the department shall notify the applicant  
384 for a state-issued certificate of franchise authority whether  
385 the applicant's affidavit described by subsection (4) is  
386 complete. If the department denies the application, the  
387 department must specify with particularity the reasons for the  
388 denial and permit the applicant to amend the application to cure  
389 any deficiency. The department shall act upon such amended  
390 application within 5 business days.

391 (4) The department shall issue a certificate of franchise  
392 authority to offer cable service before the 15th business day  
393 after receipt of a completed affidavit submitted by an applicant  
394 and signed by an officer or general partner of the applicant  
395 affirming:

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

399 (b) That the applicant agrees to comply with all  
400 applicable federal and state laws and regulations, to the extent  
401 that such state laws and rules are not in conflict with or  
402 superseded by the provisions of this chapter or other applicable  
403 state law.

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

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408 generally applicable to providers of communications services in  
409 accordance with s. 337.401.

410 (d) A description of the service area for which the  
411 applicant seeks certificate of franchise authority, which need  
412 not be coextensive with municipal, county, or other political  
413 boundaries.

414 (e) The location of the applicant's principal place of  
415 business and the names of the applicant's principal executive  
416 officers.

417 (5) If the department fails to act on the application  
418 within 15 business days after receiving the application, the  
419 application shall be deemed granted by the department without  
420 further action.

421 (6) The certificate of franchise authority issued by the  
422 department shall contain:

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

425 (b) A grant of authority to construct, maintain, and  
426 operate facilities through, upon, over, and under any public  
427 right-of-way or waters.

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

431 (7) A certificateholder that seeks to include additional  
432 service areas in its current certificate shall file notice with  
433 the department that reflects the new service area or areas to be  
434 served.



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435       (8) The certificate of franchise authority issued by the  
 436 department is fully transferable to any successor in interest to  
 437 the applicant to which the certificate is initially granted. A  
 438 notice of transfer shall be filed with the department and the  
 439 relevant municipality or county within 14 business days  
 440 following the completion of such transfer.

441       (9) The certificate of franchise authority issued by the  
 442 department may be terminated by the cable service provider by  
 443 submitting notice to the department.

444       (10) An applicant may challenge a denial of an application  
 445 by the department in a court of competent jurisdiction through a  
 446 petition for mandamus.

447       (11) The department shall adopt any procedural rules  
 448 pursuant to ss. 120.536(1) and 120.54 necessary to implement  
 449 this section.

450       (12) The department may establish a standard application  
 451 form, in which case the application shall be on such form and  
 452 must be accompanied by a fee, not to exceed \$150, to be  
 453 established by the department.

454       610.105 Eligibility for state-issued franchise.--

455       (1) Except as provided in s. 610.104(1) and (2) and  
 456 subsection (4), a cable service provider that has an existing,  
 457 unexpired franchise to provide cable service with respect to a  
 458 municipality or county as of July 1, 2006, is not eligible to  
 459 seek a state-issued certificate of franchise authority under  
 460 this chapter as to that municipality or county until the  
 461 expiration date of the existing franchise agreement.

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462       (2) For purposes of this section, a cable service provider  
463 will be deemed to have or have had a franchise to provide cable  
464 service in a specific municipality or county if any affiliate or  
465 successor entity of the cable service provider has or had a  
466 franchise agreement granted by that specific municipality or  
467 county.

468       (3) The term "affiliate or successor entity" in this  
469 section refers to an entity receiving, obtaining, or operating  
470 under a franchise that directly or indirectly owns or controls,  
471 is owned or controlled by, or is under common ownership or  
472 control with the cable service provider.

473       (4) Notwithstanding subsection (1), a cable service  
474 provider may elect to terminate an existing municipal or county  
475 franchise and seek a state-issued certificate of franchise  
476 authority with respect to such municipality or county if another  
477 cable service provider is granted a state-issued certificate of  
478 franchise authority located in whole or in part within the  
479 service area covered by the existing municipal or county  
480 franchise. The cable service provider may terminate its existing  
481 franchise under this subsection by providing written notice to  
482 the Secretary of State and the affected municipality or county  
483 within 180 days following the issuance of the state-issued  
484 certificate of franchise authority to the nonincumbent cable  
485 service provider. The municipal or county franchise is  
486 terminated on the date the department issues the state-issued  
487 certificate of franchise authority with respect to such  
488 municipality or county to the cable service provider.

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489       610.106 Franchise fee prohibited.--The department may not  
490 impose any taxes, fees, charges, or other impositions on a cable  
491 service provider as a condition for the issuance of a state-  
492 issued certificate of franchise authority. No municipality or  
493 county may impose any taxes, fees, charges, or other exactions  
494 on certificateholders in connection with use of public right-of-  
495 way as a condition of a certificateholder doing business in the  
496 municipality or county, or otherwise, except such taxes, fees,  
497 charges, or other exactions permitted by chapter 202 and s.  
498 337.401(6).

499       610.107 Buildout.--No franchising authority, state agency,  
500 or political subdivision may impose any buildout requirements on  
501 a certificateholder.

502       610.108 Customer service standards.--

503       (1) An incumbent cable service provider shall comply with  
504 customer service requirements reasonably comparable to the  
505 standards in 47 C.F.R. s. 76.309(c) until there are two or more  
506 providers offering service, excluding direct-to-home satellite  
507 service, in the relevant service area.

508       (2) Beginning not later than July 1, 2009, for all  
509 providers of cable service in municipalities and counties that,  
510 as of January 1, 2006, have an office or department dedicated to  
511 responding to cable service quality complaints, all such  
512 complaints shall be handled by the Department of Agriculture and  
513 Consumer Services. Until that time, cable service quality  
514 complaints shall continue to be handled by the municipality or  
515 county. This provision shall not be construed to permit the

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516 municipality or county to impose customer service standards in  
517 conflict with this section.

518 (3) The Department of Agriculture and Consumer Services  
519 shall receive service quality complaints from customers of a  
520 certificateholder. The department shall address such complaints  
521 in an expeditious manner by assisting in the resolution of such  
522 complaint between the complainant and the certificateholder. The  
523 department shall adopt any procedural rules pursuant to ss.  
524 120.536(1) and 120.54 necessary to implement this section.

525 610.109 Public, educational, and governmental access  
526 channels.--

527 (1) A certificateholder, not later than 180 days following  
528 a request by a municipality or county within whose jurisdiction  
529 the certificateholder is providing cable service, shall  
530 designate a sufficient amount of capacity on its network to  
531 allow the provision of public, educational, and governmental  
532 access channels for noncommercial programming as set forth in  
533 this section.

534 (2) A certificateholder shall designate a sufficient  
535 amount of capacity on its network to allow the provision of a  
536 comparable number of public, educational, and governmental  
537 access channels or capacity equivalent that a municipality or  
538 county has activated under the incumbent cable service  
539 provider's franchise agreement as of July 1, 2006. For the  
540 purposes of this section, a public, educational, or governmental  
541 channel is deemed activated if the channel is being used for  
542 public, educational, or governmental programming within the  
543 municipality for at least 10 hours per day.

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544 (3) If a municipality or county did not have public,  
545 educational, or governmental access channels activated under the  
546 incumbent cable service provider's franchise agreement as of  
547 July 1, 2006, not later than 180 days following a request by the  
548 municipality or county within whose jurisdiction a  
549 certificateholder is providing cable service, the cable service  
550 provider shall furnish:

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

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

557 (4) Any public, educational, or governmental channel  
558 provided pursuant to this section that is not used by the  
559 municipality or county for at least 10 hours a day shall no  
560 longer be made available to the municipality or county but may  
561 be programmed at the cable service provider's discretion. At  
562 such time as the municipality or county can certify to the cable  
563 service provider a schedule for at least 10 hours of daily  
564 programming, the cable service provider shall restore the  
565 previously lost channel but shall be under no obligation to  
566 carry that channel on a basic or analog tier.

567 (5) If a municipality or county has not used the number of  
568 access channels or capacity equivalent permitted by subsection  
569 (3), access to the additional channels or capacity equivalent  
570 allowed in subsection (3) shall be provided upon 180 days'  
571 written notice if the municipality or county meets the following

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572 standard: if a municipality or county has one active public,  
573 educational, or governmental channel and wishes to activate an  
574 additional public, educational, or governmental channel, the  
575 initial channel shall be considered to be substantially used  
576 when 12 hours are programmed on that channel each calendar day.  
577 In addition, at least 40 percent of the 12 hours of programming  
578 for each business day on average over each calendar quarter must  
579 be nonrepeat programming. Nonrepeat programming shall include  
580 the first three videocastings of a program. If a municipality or  
581 county is entitled to three public, educational, or governmental  
582 channels under subsection (3) and has in service two active  
583 public, educational, or governmental channels, each of the two  
584 active channels shall be considered to be substantially used  
585 when 12 hours are programmed on each channel each calendar day  
586 and at least 50 percent of the 12 hours of programming for each  
587 business day on average over each calendar quarter is nonrepeat  
588 programming for three consecutive calendar quarters.

589 (6) The operation of any public, educational, or  
590 governmental access channel or capacity equivalent provided  
591 under this section shall be the responsibility of the  
592 municipality or county receiving the benefit of such channel or  
593 capacity equivalent, and a certificateholder bears only the  
594 responsibility for the transmission of such channel content. A  
595 certificateholder shall be responsible for providing the  
596 connectivity to each public, educational, or governmental access  
597 channel distribution point up to the first 200 feet.

598 (7) The municipality or county shall ensure that all  
599 transmissions, content, or programming to be transmitted over a

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600 channel or facility by a certificateholder are provided or  
601 submitted to the cable service provider in a manner or form that  
602 is capable of being accepted and transmitted by a provider  
603 without any requirement for additional alteration or change in  
604 the content by the provider, over the particular network of the  
605 cable service provider, which is compatible with the technology  
606 or protocol utilized by the cable service provider to deliver  
607 services. The provision of public, educational, or governmental  
608 content to the provider constitutes authorization for the  
609 provider to carry such content, including, at the provider's  
610 option, authorization to carry the content beyond the  
611 jurisdictional boundaries of the municipality or county.

612 (8) Where technically feasible, a certificateholder and an  
613 incumbent cable service provider shall use reasonable efforts to  
614 interconnect their cable systems for the purpose of providing  
615 public, educational, and governmental programming.

616 Interconnection may be accomplished by direct cable, microwave  
617 link, satellite, or other reasonable method of connection.

618 Certificateholders and incumbent cable service providers shall  
619 negotiate in good faith and incumbent cable service providers  
620 may not withhold interconnection of public, educational, and  
621 governmental channels.

622 (9) A certificateholder is not required to interconnect  
623 for, or otherwise to transmit, public, educational, and  
624 governmental content that is branded with the logo, name, or  
625 other identifying marks of another cable service provider, and a  
626 municipality or county may require a cable service provider to  
627 remove its logo, name, or other identifying marks from public,

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628 educational, and governmental content that is to be made  
629 available to another provider.

630 (10) A court of competent jurisdiction shall have  
631 exclusive jurisdiction to enforce any requirement under this  
632 section.

633 610.110 Nondiscrimination by municipality or county.--

634 (1) A municipality or county shall allow a  
635 certificateholder to install, construct, and maintain a network  
636 within a public right-of-way and shall provide a  
637 certificateholder with open, comparable, nondiscriminatory, and  
638 competitively neutral access to the public right-of-way in  
639 accordance with the provisions of s. 337.401. All use of a  
640 public right-of-way by a certificateholder is nonexclusive.

641 (2) A municipality or county may not discriminate against  
642 a certificateholder regarding:

643 (a) The authorization or placement of a network in a  
644 public right-of-way;

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

646 (c) Utility pole attachment terms.

647 610.112 Limitation on local authority.--

648 (1) A municipality or county may not impose additional  
649 requirements on a certificateholder, including, but not limited  
650 to, financial, operational, and administrative requirements,  
651 except as expressly permitted by this chapter. A municipality or  
652 county may not impose on activities of a certificateholder a  
653 requirement:

654 (a) That particular business offices be located in the  
655 municipality or county;



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656 (b) Regarding the filing of reports and documents with the  
657 municipality or county that are not required by state or federal  
658 law and that are not related to the use of the public right-of-  
659 way. Reports and documents other than schematics indicating the  
660 location of facilities for a specific site that are provided in  
661 the normal course of the municipality's or county's permitting  
662 process, that are authorized by s. 337.401 for communications  
663 services providers, or that are otherwise required in the normal  
664 course of such permitting process shall not be considered  
665 related to the use of the public right-of-way for communications  
666 services providers. A municipality or county may not request  
667 information concerning the capacity or technical configuration  
668 of a certificateholder's facilities;

669 (c) For the inspection of a certificateholder's business  
670 records; or

671 (d) For the approval of transfers of ownership or control  
672 of a certificateholder's business, except a municipality or  
673 county may require a certificateholder to provide notice of a  
674 transfer within a reasonable time.

675 (2) Notwithstanding any other provision of law, a  
676 municipality or county may require the issuance of a permit in  
677 accordance with and subject to s. 337.401 to a certificateholder  
678 that is placing and maintaining facilities in or on a public  
679 right-of-way in the municipality or county. In accordance with  
680 s. 337.402, the permit may require the permitholder to be  
681 responsible, at the permitholder's expense, for any damage  
682 resulting from the issuance of such permit and for restoring the  
683 public right-of-way to a substantially similar condition to that

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684 of the public right-of-way before installation of such  
685 facilities. The terms of the permit shall be consistent with  
686 construction permits issued to other providers of communications  
687 services placing or maintaining communications facilities in a  
688 public right-of-way.

689 610.113 Discrimination prohibited.--

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

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

696 (3) An affected person may seek enforcement of the  
697 requirements provided by subsection (2) by initiating a  
698 proceeding with the Department of Agriculture and Consumer  
699 Services pursuant to s. 570.544.

700 (4) For purposes of determining whether a  
701 certificateholder has violated subsection (2), cost, density,  
702 distance, and technological or commercial limitations shall be  
703 taken into account, and the certificateholder shall have a  
704 reasonable time to deploy service pursuant to 47 U.S.C. s.  
705 541(a)(4)(A). Use of an alternative technology that provides  
706 comparable content, service, and functionality may not be  
707 considered a violation of subsection (2). The inability to serve  
708 an end user because a certificateholder is prohibited from  
709 placing its own facilities in a building or property is not a  
710 violation of subsection (2). This section may not be construed  
711 to authorize any buildout requirements on a certificateholder.

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712       (5) The department shall adopt any procedural rules  
713 pursuant to ss. 120.536(1) and 120.54 necessary to implement  
714 this section.

715       610.114 Compliance.--If a certificateholder is found by a  
716 court of competent jurisdiction to not comply with the  
717 requirements of this chapter, the certificateholder shall have a  
718 reasonable period of time, as specified by the court, to cure  
719 such noncompliance.

720       610.115 Applicability of other laws.--Nothing in this  
721 chapter impairs the right of a provider of video programming  
722 that is not a cable service provider to provide video  
723 programming and use public right-of-way under chapter 337  
724 without a state-issued certificate of franchise authority.

725       610.116 Reports to the Legislature.--The Office of Program  
726 Policy Analysis and Governmental Accountability shall submit to  
727 the President of the Senate, the Speaker of the House of  
728 Representatives, and the majority and minority leaders of the  
729 Senate and House of Representatives, on December 1, 2009, a  
730 report on the status of competition in the cable service  
731 industry, including, by each municipality and county, the number  
732 of cable service providers, the number of cable subscribers  
733 served, the number of areas served by fewer than two cable  
734 service providers, the trend in cable prices, and the  
735 identification of any patterns of service as they impact  
736 demographic and income groups.

737       610.117 Severability.--If any provision of ss. 610.102-  
738 610.116 or the application thereof to any person or circumstance  
739 is held invalid, such invalidity shall not affect other

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740 provisions or application of ss. 610.102-610.116 that can be  
 741 given effect without the invalid provision or application, and  
 742 to this end the provisions of ss. 610.102-610.116 are severable.

743 Section 6. Section 166.046, Florida Statutes, is repealed.

744 Section 7. Paragraph (a) of subsection (3) of section  
 745 350.81, Florida Statutes, is amended to read:

746 350.81 Communications services offered by governmental  
 747 entities.--

748 (3) (a) A governmental entity that provides a cable service  
 749 shall comply with the Cable Communications Policy Act of 1984,  
 750 47 U.S.C. ss. 521 et seq., the regulations issued by the Federal  
 751 Communications Commission under the Cable Communications Policy  
 752 Act of 1984, 47 U.S.C. ss. 521 et seq., and all applicable state  
 753 and federal rules and regulations, including, but not limited  
 754 to, ~~s. 166.046~~ and those provisions of chapters 202, 212, and  
 755 337, and 610 which apply to a provider of the services.

756 Section 8. Section 364.0361, Florida Statutes, is amended  
 757 to read:

758 364.0361 Local government authority; nondiscriminatory  
 759 exercise.--A local government shall treat each  
 760 telecommunications company in a nondiscriminatory manner when  
 761 exercising its authority to grant franchises to a  
 762 telecommunications company or to otherwise establish conditions  
 763 or compensation for the use of rights-of-way or other public  
 764 property by a telecommunications company. A local government may  
 765 not directly or indirectly regulate the terms and conditions,  
 766 including, but not limited to, the operating systems,  
 767 qualifications, services, service quality, service territory,

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768 | and prices, applicable to or in connection with the provision of  
 769 | any voice-over-Internet protocol, regardless of the platform,  
 770 | provider, or protocol, broadband or information service. This  
 771 | section does not relieve a provider from any obligations under  
 772 | ~~s. 166.046~~ or s. 337.401.

773 |         Section 9. This act shall take effect July 1, 2006.