

1 A bill to be entitled
2 An act relating to statewide cable television franchises;
3 providing a short title; amending s. 202.24, F.S.;
4 prohibiting counties and municipalities from negotiating
5 terms and conditions relating to cable services; deleting
6 authorization to negotiate; revising application to
7 existing ordinances or franchise agreements; amending s.
8 337.401, F.S.; deleting authorization for counties and
9 municipalities to award cable service franchises and a
10 restriction that cable service companies not operate
11 without such a franchise; amending s. 337.4061, F.S.;
12 revising definitions; creating ss. 610.102, 610.103,
13 610.104, 610.105, 610.107, 610.1075, 610.108, 610.109,
14 610.110, 610.111, 610.112, 610.113, 610.114, 610.115,
15 610.116, 610.117, and 610.118, F.S.; designating the
16 Department of State as the franchising authority for cable
17 service ordinances or statutory franchises; prohibiting
18 counties or municipalities from granting new cable service
19 franchises after a certain date; providing definitions;
20 authorizing municipalities and counties to enact standard
21 cable service ordinances under certain circumstances;
22 providing ordinance requirements, procedures, and
23 limitations; providing for issuance of a statutory
24 certificate of franchise authority issued by the
25 Department of State under certain circumstances;
26 specifying required provisions of standard cable service
27 franchise ordinances; providing for optional provisions of

28 | such ordinances; providing requirements; specifying an
29 | application process for statutory certificates of
30 | franchise authority; providing requirements; authorizing
31 | the department to adopt rules; authorizing the department
32 | to revoke certificates under certain circumstances;
33 | specifying eligibility criteria and requirements for
34 | certain cable providers for franchise authority for cable
35 | service ordinances or statutory certificates; prohibiting
36 | the department from imposing taxes, fees, or charges on a
37 | cable service provider to issue a certificate; prohibiting
38 | imposing buildout requirements on a certificateholder;
39 | specifying certain customer service standards; requiring
40 | certificateholders to make cable service available at
41 | certain public buildings under certain circumstances;
42 | requiring the Department of Agriculture and Consumer
43 | Services to receive customer service complaints; requiring
44 | provision of public, educational, and governmental access
45 | channels or capacity equivalent; providing criteria,
46 | requirements, and procedures; providing exceptions;
47 | providing responsibilities of municipalities and counties
48 | relating to such channels; providing for enforcement;
49 | requiring certificateholders to pay a portion of certain
50 | monthly revenues to municipalities or counties for a
51 | certain period of time; providing for continuing such
52 | payments pursuant to local government approval;
53 | authorizing continued payments to be itemized; providing
54 | criteria for such payments; providing requirements for and

55 | limitations on counties and municipalities relating to
56 | access to public right-of-way; prohibiting counties and
57 | municipalities from imposing additional requirements on
58 | certificateholders; authorizing counties and
59 | municipalities to require permits of certificateholders
60 | relating to public right-of-way; providing permit criteria
61 | and requirements; prohibiting discrimination between cable
62 | service subscribers; providing for enforcement; providing
63 | for determinations of violations; providing for
64 | enforcement of compliance by certificateholders; requiring
65 | the Office of Program Policy Analysis and Government
66 | Accountability to report to the Legislature on the status
67 | of competition in the cable service industry; providing
68 | applicability to competitive video programming services;
69 | providing report requirements; providing severability;
70 | repealing s. 166.046, F.S., relating to definitions and
71 | minimum standards for cable television franchises imposed
72 | upon counties and municipalities; amending ss. 350.81 and
73 | 364.0361, F.S.; conforming cross-references; providing an
74 | appropriation; providing for voiding certain deed
75 | restrictions or restrictive covenants relating to cable
76 | service purchase requirements; providing an effective
77 | date.

78 |
79 | Be It Enacted by the Legislature of the State of Florida:
80 |

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

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

85 202.24 Limitations on local taxes and fees imposed on
 86 dealers of communications services.--

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

89 1. Levying on or collecting from dealers or purchasers of
 90 communications services any tax, charge, fee, or other
 91 imposition on or with respect to the provision or purchase of
 92 communications services.

93 2. Requiring any dealer of communications services to
 94 enter into or extend the term of a franchise or other agreement
 95 that requires the payment of a tax, charge, fee, or other
 96 imposition.

97 3. Adopting or enforcing any provision of any ordinance or
 98 agreement to the extent that such provision obligates a dealer
 99 of communications services to charge, collect, or pay to the
 100 public body a tax, charge, fee, or other imposition.

101
 102 Municipalities and counties may not negotiate ~~Each municipality~~
 103 ~~and county retains authority to negotiate all terms and~~
 104 ~~conditions of a cable service franchise allowed by federal and~~
 105 ~~state law except those terms and conditions related to franchise~~
 106 ~~fees~~ or ~~and~~ the definition of gross revenues or other

107 definitions or methodologies related to the payment or
108 assessment of franchise fees on providers of cable services.

109 (c) This subsection does not apply to:

110 1. Local communications services taxes levied under this
111 chapter.

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

113 3. Occupational license taxes levied under chapter 205.

114 4. "911" service charges levied under chapter 365.

115 5. Amounts charged for the rental or other use of property
116 owned by a public body which is not in the public rights-of-way
117 to a dealer of communications services for any purpose,
118 including, but not limited to, the placement or attachment of
119 equipment used in the provision of communications services.

120 6. Permit fees of general applicability which are not
121 related to placing or maintaining facilities in or on public
122 roads or rights-of-way.

123 7. Permit fees related to placing or maintaining
124 facilities in or on public roads or rights-of-way pursuant to s.
125 337.401.

126 8. Any in-kind requirements, institutional networks, or
127 contributions for, or in support of, the use or construction of
128 public, educational, or governmental access facilities allowed
129 under federal law and imposed on providers of cable service
130 pursuant to any existing ordinance or an existing franchise
131 agreement granted by each municipality or county, under which
132 ordinance or franchise agreement service is provided prior to
133 July 1, 2006, or as permitted under chapter 610. Nothing in this

134 subparagraph shall prohibit the ability of providers of cable
 135 service to recover such expenses as allowed under federal law.

136 9. Special assessments and impact fees.

137 10. Pole attachment fees that are charged by a local
 138 government for attachments to utility poles owned by the local
 139 government.

140 11. Utility service fees or other similar user fees for
 141 utility services.

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

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

148 337.401 Use of right-of-way for utilities subject to
 149 regulation; permit; fees.--

150 (3) (a) ~~1-~~ Because of the unique circumstances applicable to
 151 providers of communications services, including, but not limited
 152 to, the circumstances described in paragraph (e) and the fact
 153 that federal and state law require the nondiscriminatory
 154 treatment of providers of telecommunications services, and
 155 because of the desire to promote competition among providers of
 156 communications services, it is the intent of the Legislature
 157 that municipalities and counties treat providers of
 158 communications services in a nondiscriminatory and competitively
 159 neutral manner when imposing rules or regulations governing the
 160 placement or maintenance of communications facilities in the

161 public roads or rights-of-way. Rules or regulations imposed by a
162 municipality or county relating to providers of communications
163 services placing or maintaining communications facilities in its
164 roads or rights-of-way must be generally applicable to all
165 providers of communications services and, notwithstanding any
166 other law, may not require a provider of communications
167 ~~services, except as otherwise provided in subparagraph 2.,~~ to
168 apply for or enter into an individual license, franchise, or
169 other agreement with the municipality or county as a condition
170 of placing or maintaining communications facilities in its roads
171 or rights-of-way. In addition to other reasonable rules or
172 regulations that a municipality or county may adopt relating to
173 the placement or maintenance of communications facilities in its
174 roads or rights-of-way under this subsection, a municipality or
175 county may require a provider of communications services that
176 places or seeks to place facilities in its roads or rights-of-
177 way to register with the municipality or county and to provide
178 the name of the registrant; the name, address, and telephone
179 number of a contact person for the registrant; the number of the
180 registrant's current certificate of authorization issued by the
181 Florida Public Service Commission, ~~or~~ the Federal Communications
182 Commission, or the Department of State; and proof of insurance
183 or self-insuring status adequate to defend and cover claims. For
184 the purposes of this section, the term "communications service"
185 includes the term "cable service" as defined in s. 610.103(1)
186 and the term "competitive video programming services" as defined
187 in s. 610.118.

188 ~~2. Notwithstanding the provisions of subparagraph 1., a~~
189 ~~municipality or county may, as provided by 47 U.S.C. s. 541,~~
190 ~~award one or more franchises within its jurisdiction for the~~
191 ~~provision of cable service, and a provider of cable service~~
192 ~~shall not provide cable service without such franchise. Each~~
193 ~~municipality and county retains authority to negotiate all terms~~
194 ~~and conditions of a cable service franchise allowed by federal~~
195 ~~law and s. 166.046, except those terms and conditions related to~~
196 ~~franchise fees and the definition of gross revenues or other~~
197 ~~definitions or methodologies related to the payment or~~
198 ~~assessment of franchise fees and permit fees as provided in~~
199 ~~paragraph (c) on providers of cable services. A municipality or~~
200 ~~county may exercise its right to require from providers of cable~~
201 ~~service in-kind requirements, including, but not limited to,~~
202 ~~institutional networks, and contributions for, or in support of,~~
203 ~~the use or construction of public, educational, or governmental~~
204 ~~access facilities to the extent permitted by federal law. A~~
205 ~~provider of cable service may exercise its right to recover any~~
206 ~~such expenses associated with such in kind requirements, to the~~
207 ~~extent permitted by federal law.~~

208 (e) The authority of municipalities and counties to
209 require franchise fees from providers of communications
210 services, with respect to the provision of communications
211 services, is specifically preempted by the state, ~~except as~~
212 ~~otherwise provided in subparagraph (a)2.,~~ because of unique
213 circumstances applicable to providers of communications services
214 when compared to other utilities occupying municipal or county

215 roads or rights-of-way. Providers of communications services may
216 provide similar services in a manner that requires the placement
217 of facilities in municipal or county roads or rights-of-way or
218 in a manner that does not require the placement of facilities in
219 such roads or rights-of-way. Although similar communications
220 services may be provided by different means, the state desires
221 to treat providers of communications services in a
222 nondiscriminatory manner and to have the taxes, franchise fees,
223 and other fees paid by providers of communications services be
224 competitively neutral. Municipalities and counties retain all
225 existing authority, if any, to collect franchise fees from users
226 or occupants of municipal or county roads or rights-of-way other
227 than providers of communications services, and the provisions of
228 this subsection shall have no effect upon this authority. The
229 provisions of this subsection do not restrict the authority, if
230 any, of municipalities or counties or other governmental
231 entities to receive reasonable rental fees based on fair market
232 value for the use of public lands and buildings on property
233 outside the public roads or rights-of-way for the placement of
234 communications antennas and towers.

235 (f) Except as expressly allowed or authorized by general
236 law and except for the rights-of-way permit fees subject to
237 paragraph (c), a municipality or county may not levy on a
238 provider of communications services a tax, fee, or other charge
239 or imposition for operating as a provider of communications
240 services within the jurisdiction of the municipality or county
241 which is in any way related to using its roads or rights-of-way.

242 A municipality or county may not require or solicit in-kind
 243 compensation, except as otherwise provided in s. 202.24(2)(c)8.,
 244 s. 610.1075(2), or s. 610.113 ~~subparagraph (a)2~~. Nothing in this
 245 paragraph shall impair any ordinance or agreement in effect on
 246 May 22, 1998, or any voluntary agreement entered into subsequent
 247 to that date, which provides for or allows in-kind compensation
 248 by a telecommunications company.

249 Section 4. Section 337.4061, Florida Statutes, is amended
 250 to read:

251 337.4061 Definitions; unlawful use of state-maintained
 252 road right-of-way by nonfranchised cable ~~television~~ services.--

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

254 (a) "Cable service" means:

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

257 2. Subscriber interaction, if any, which is required for
 258 the selection of such video programming or other programming
 259 service.

260 (b) "Cable system" means a facility, consisting of a set
 261 of closed transmission paths and associated signal generation,
 262 reception, and control equipment that is designed to provide
 263 cable service which includes video programming and which is
 264 provided to multiple subscribers within a community, but such
 265 term does not include:

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

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

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

274 ~~4.3.~~ A facility of a common carrier that is subject, in
 275 whole or in part, to the provisions of 47 U.S.C. ss. 201 et
 276 seq., except the specific bandwidths or wavelengths used by that
 277 such facility shall be considered a cable system only to the
 278 extent such bandwidths or wavelengths are ~~facility is~~ used in
 279 the transmission of video programming directly to subscribers,
 280 unless the extent of such use is solely to provide interactive
 281 on-demand services, in which case the use of such bandwidths or
 282 wavelengths is not a cable system; or

283 ~~5.4.~~ Any facilities of any electric utility used solely
 284 for operating its electric utility systems.

285 (c) "Franchise" means an initial authorization or renewal
 286 thereof issued by a franchising authority, whether such
 287 authorization is designated as a franchise, permit, license,
 288 resolution, contract, certificate, agreement, or otherwise,
 289 which authorizes the construction or operation of a cable
 290 system.

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

293 (e) "Person" means an individual, partnership,
 294 association, joint stock company, trust, corporation, or
 295 governmental entity.

296 (f) "Video programming" means programming provided by or
 297 generally considered comparable to programming provided by a
 298 television broadcast station or cable system.

299 (2) It is unlawful to use the right-of-way of any state-
 300 maintained road, including appendages thereto, and also
 301 including, but not limited to, rest areas, wayside parks, boat-
 302 launching ramps, weigh stations, and scenic easements, to
 303 provide for cable service over a cable system ~~purposes~~ within a
 304 geographic area subject to a valid existing franchise for cable
 305 service, unless the cable system using such right-of-way holds a
 306 franchise from a franchising authority ~~the municipality or~~
 307 ~~county~~ for the area in which the right-of-way is located.

308 (3) A violation of this section shall be deemed a
 309 violation of s. 337.406.

310 Section 5. Sections 610.102, 610.103, 610.104, 610.105,
 311 610.107, 610.1075, 610.108, 610.109, 610.110, 610.111, 610.112,
 312 610.113, 610.114, 610.115, 610.116, 610.117, and 610.118,
 313 Florida Statutes, are created to read:

314 610.102 Authority to issue cable franchise.--The
 315 department shall be designated as the franchising authority,
 316 pursuant to 47 U.S.C. s. 522(10), for an ordinance or statutory
 317 franchise for the provision of cable service. A municipality or
 318 county may not grant a new franchise for the provision of cable

319 service within its jurisdiction after the effective date of this
320 act.

321 610.103 Definitions.--As used in this chapter, the term:

322 (1) "Cable service" means:

323 (a) The one-way transmission to subscribers of video
324 programming or any other programming service.

325 (b) Subscriber interaction, if any, that is required for
326 the selection of such video programming or other programming
327 service.

328 (2) "Cable service provider" means a person that provides
329 cable service over a cable system.

330 (3) "Cable system" means a facility consisting of a set of
331 closed transmission paths and associated signal generation,
332 reception, and control equipment that is designed to provide
333 cable service that includes video programming and that is
334 provided to multiple subscribers within a community, but such
335 term does not include:

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

338 (b) A facility that serves only subscribers in one or more
339 multiple-unit dwellings under common ownership, control, or
340 management, unless such facility or facilities use any public
341 right-of-way;

342 (c) A facility that serves subscribers without using any
343 public right-of-way;

344 (d) A facility of a common carrier that is subject, in
345 whole or in part, to the provisions of 47 U.S.C. ss. 201 et

346 seq., except the specific bandwidths or wavelengths over such
347 facility shall be considered a cable system only to the extent
348 such bandwidths or wavelengths are used in the transmission of
349 video programming directly to subscribers, unless the extent of
350 such use is solely to provide interactive on-demand services, in
351 which case it is not a cable system; or

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

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

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

358 (6) "Franchise" or "franchise authority" means an initial
359 authorization or renewal of an authorization, regardless of
360 whether the authorization is designated as a franchise, permit,
361 license, resolution, contract, certificate, agreement, or
362 otherwise, to construct and operate a cable system in the public
363 right-of-way.

364 (7) "Incumbent cable service provider" means the cable
365 service provider serving the largest number of cable subscribers
366 in a particular municipal or county franchise area on July 1,
367 2006.

368 (8) "Public right-of-way" means the area on, below, or
369 above a public roadway, highway, street, sidewalk, or alley,
370 including, but not limited to, a municipal, county, state,
371 district, or other public roadway, highway, street, sidewalk, or
372 alley.

373 (9) "Video programming" means programming provided by, or
374 generally considered comparable to programming provided by, a
375 television broadcast station as set forth in 47 U.S.C. s.
376 522(20).

377 610.104 Standard cable ordinance; ordinance certificate of
378 franchise authority.--

379 (1) A municipality or county may enact a standard cable
380 ordinance for the provision of cable service over a cable system
381 within its jurisdiction within 60 days after a request by an
382 entity or person, other than the incumbent cable service
383 provider, seeking to provide cable service over a cable system
384 in whole or in part within that municipality or county but in no
385 event later than January 1, 2007. A municipality must, at least
386 10 days prior to consideration on first reading, and a county
387 must, at least 15 days prior to consideration at a public
388 hearing, provide notice to the Secretary of State of a proposed
389 standard cable ordinance. The notice required by this subsection
390 must be published by the Secretary of State on a designated
391 Internet website.

392 (2) A standard cable ordinance shall contain each of the
393 terms and conditions set forth in s. 610.107 using the precise
394 language contained in that section. The standard cable ordinance
395 may contain any or all of the provisions in s. 610.1075(1)-(6)
396 and shall not impose any other terms or conditions upon a cable
397 service provider. If a municipality or county enacts a standard
398 cable ordinance within the 60-day period that complies with the
399 requirements of this section, an entity or person seeking to

400 provide cable service over a cable system in whole or in part
401 within that municipality or county shall file its application
402 for an ordinance certificate pursuant to the terms and
403 conditions set forth in s. 610.107 with the municipality or
404 county. Upon determining that an applicant has met the criteria
405 as set forth in s. 610.107, the municipality or county shall
406 immediately issue notice of compliance to the department,
407 whereupon the department shall issue an ordinance certificate of
408 franchise authority that contains all of the terms set forth in
409 s. 610.108(4) within 5 business days. The standard cable
410 ordinance enacted by a municipality or county pursuant to, and
411 in conformance with, the requirements of this chapter shall
412 supersede any existing cable ordinance enacted by the county or
413 municipality with regard to any cable service provider electing
414 to apply for or operating under a standard ordinance
415 certificate. A municipality or county may not change the terms
416 of any ordinance adopted pursuant to this section, except that
417 the municipality or county may change terms adopted pursuant to
418 s. 610.1075 after a period of 10 years after the date of initial
419 enactment of the standard ordinance and every 10 years
420 thereafter, subject to the limits set forth in s. 610.1075(1)-
421 (6).

422 610.105 Statutory certificate.--In the event a
423 municipality or county fails to enact the standard cable
424 ordinance permitted by s. 610.104 within 60 days after a request
425 or before January 1, 2007, whichever is earlier, or fails to
426 provide notice of compliance with the department to allow the

427 department to issue an ordinance certificate pursuant to the
428 standard cable ordinance within the period set forth in s.
429 610.107(3), an entity or person seeking to provide cable service
430 over a cable system in whole or in part within that municipality
431 or county shall file for a statutory certificate of franchise
432 authority with the department as set forth in s. 610.108. If a
433 municipality or county disputes that its ordinance fails to
434 comply with the requirements of s. 610.104 or disputes that it
435 has failed to notify the department to issue an ordinance
436 certificate within the period set forth in s. 610.107(3), the
437 statutory certificate of franchise authority shall govern until
438 the dispute is resolved and the municipality or county notifies
439 the department to issue an ordinance certificate pursuant to a
440 valid standard cable ordinance.

441 610.107 Required provisions of standard cable
442 ordinance.--A municipality or county electing to enact a
443 standard cable ordinance pursuant to s. 610.104 must adopt the
444 provisions set forth in subsections (1)-(11) using the precise
445 language set forth in those subsections, except as otherwise
446 indicated in brackets, and may not include any other terms or
447 conditions:

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

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

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

461 (c) That the applicant agrees to comply with all lawful
462 state laws and rules and municipal and county ordinances and
463 regulations regarding the placement and maintenance of
464 communications facilities in the public right-of-way that are
465 generally applicable to providers of communications services in
466 accordance with s. 337.401, Florida Statutes.

467 (d) A description of the service area for which the
468 applicant seeks certificate of franchise authority, which need
469 not be coextensive with municipal, county, or other political
470 boundaries.

471 (e) The location of the applicant's principal place of
472 business and the names of the applicant's principal executive
473 officers.

474 (f) That the applicant is authorized to do business in the
475 state.

476 (g) That the applicant has sufficient technical,
477 financial, and managerial capability to provide cable service
478 within the service area for which the applicant seeks a
479 certificate of franchise authority. At the time of the filing of

480 the affidavit, the applicant shall furnish its most recent
481 unqualified audited financial statement if a publicly available
482 audited financial report for the applicant or its parent entity
483 is not available.

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

487 (2) Before the 10th business day after an applicant for a
488 certificate of franchise authority submits the affidavit
489 described in subsection (1), the [applicable municipal or county
490 agency] shall notify the applicant whether the applicant's
491 affidavit is complete. If the [applicable municipal or county
492 agency] finds that the application is incomplete, the
493 [applicable municipal or county agency] must specify with
494 particularity the corrective action required and permit the
495 applicant to amend the application to cure any deficiency.

496 (3) The [applicable municipal or county agency] shall
497 provide a notice of compliance to the Department of State before
498 the 15th business day after receipt of an affidavit submitted by
499 an applicant pursuant to subsection (1), except that, if the
500 [applicable municipal or county agency] provides notice before
501 the 10th business day after receipt of the affidavit that the
502 affidavit is not complete pursuant to subsection (2), the
503 [applicable municipal or county agency] shall submit a notice of
504 compliance to the Department of State within 5 business days
505 after receipt of an amended affidavit.

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

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

518 (6) The ordinance certificate is fully transferable to any
519 successor in interest to the applicant to which the certificate
520 is initially granted. A notice of transfer shall be filed with
521 the [applicable municipal or county agency] and the Department
522 of State within 14 business days following the completion of
523 such transfer.

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

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

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

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

537 (11) After [the effective date of this ordinance], a cable
538 service provider operating under a franchise agreement granted
539 by [the applicable municipality or county] prior to [the
540 effective date of this ordinance] may elect to terminate its
541 existing franchise agreement pursuant to s. 610.109, Florida
542 Statutes, and obtain an ordinance franchise hereunder.

543 610.1075 Optional provisions of standard cable
544 ordinance.--A municipality or county electing to enact a
545 standard cable ordinance pursuant to s. 610.104 may include
546 provisions that:

547 (1) Establish the number of public, educational, and
548 governmental access channels that each cable service provider
549 must provide, upon request, to the municipality or county, as
550 follows:

551 (a) A municipality or county may require an ordinance
552 certificateholder, within 180 days following a request from such
553 municipality or county, to designate a sufficient amount of
554 capacity on its network to allow the provision of a comparable
555 number of public, educational, and governmental access channels
556 or capacity equivalent that a municipality or county has
557 activated under the incumbent cable service provider's franchise
558 agreement as of January 1, 2006, or the number of channels or

559 capacity set forth in paragraph (b), whichever is greater. For
560 the purposes of this section, a public, educational, or
561 governmental channel is deemed activated if the channel is being
562 used for public, educational, or governmental programming within
563 the municipality or county for at least 4 hours per day. The
564 municipality or county may require, within 180 days following a
565 request from such municipality or county, additional channels or
566 capacity up to the equivalent permitted under the incumbent
567 cable service provider's franchise agreement as of January 1,
568 2006, upon a showing that activated channels are substantially
569 used, as set forth in s. 610.113(5).

570 (b) If a municipality or county did not have public,
571 educational, or governmental access channels activated under the
572 incumbent cable service provider's franchise agreement as of
573 January 1, 2006, the municipality or county may require the
574 ordinance certificateholder to furnish, not later than 180 days
575 following a request by the municipality or county:

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

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

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

585 (2) Require the ordinance certificateholder to make cash
586 payments as follows:

587 (a) To the extent that the municipality or county was
588 entitled on July 1, 2006, to receive recurring cash payments on
589 a per subscriber basis to support the capital costs of public,
590 educational, and governmental access facilities pursuant to the
591 terms of the incumbent cable service provider's franchise, the
592 municipality or county may require an ordinance
593 certificateholder to make the same recurring cash payments on a
594 per subscriber basis until the expiration date set forth in the
595 incumbent cable service provider's franchise agreement existing
596 as of July 1, 2006, regardless of whether the incumbent cable
597 service provider's franchise agreement is terminated pursuant to
598 s. 610.109(4). Thereafter, the municipality or county may
599 require an ordinance certificateholder to pay to the
600 municipality or county an amount not to exceed 1 percent of the
601 certificateholder's sales price as defined in s. 202.11(13) for
602 the retail sale of cable services provided to customers located
603 within the respective municipal or county boundaries, based upon
604 the certificateholder's books and records. Such payments may
605 only be used by the municipality or county to support the
606 capital costs incurred by the municipality or county for public,
607 educational, or governmental access facilities. All payments
608 made pursuant to this subsection shall be made in the same
609 manner as and as a part of the certificateholder's payment of
610 communications services tax pursuant to s. 202.27, and all

611 definitions, exemptions, and administrative provisions of
612 chapter 202 shall apply to such payments.

613 (b) If the municipality or county was not entitled on July
614 1, 2006, to receive recurring cash payments on a per subscriber
615 basis to support the capital costs of public, educational, and
616 governmental access facilities pursuant to the terms of the
617 incumbent cable service provider's franchise, or if the
618 municipality or county elects not to require payments under
619 paragraph (a), the municipality or county may require an
620 ordinance certificateholder to pay to the municipality or county
621 an amount not to exceed 1 percent of the certificateholder's
622 sales price as defined in s. 202.11(13) for the retail sale of
623 cable services provided to customers located within the
624 respective municipal or county boundaries, based upon the
625 certificateholder's books and records. Such payments may only be
626 used by the municipality or county to support the capital costs
627 incurred by the municipality or county for public, educational,
628 or governmental access facilities. All payments made pursuant to
629 this subsection shall be made in the same manner as and as a
630 part of the certificateholder's payment of communications
631 services tax pursuant to s. 202.27, and all definitions,
632 exemptions, and administrative provisions of chapter 202 shall
633 apply to such payments.

634 (3) Require each ordinance certificateholder, if requested
635 pursuant to a bona fide order for cable service, to make cable
636 service available at each building used for municipal or county
637 purposes, including, but not limited to, emergency operations

638 centers, fire stations, and public schools within the area
639 described in its application under s. 610.107(1)(d), within 5
640 years after the date of the issuance of its certificate by the
641 municipality or county. Such provisions must permit the
642 ordinance certificateholder to satisfy this obligation using the
643 technology of its choice.

644 (4) Identify and cross-reference other municipal and
645 county ordinances and regulations regarding the placement and
646 maintenance of communications facilities in the public right-of-
647 way with which each ordinance certificateholder must comply. Any
648 other ordinance and regulation identified and cross-referenced
649 in the standard cable ordinance shall be generally applicable to
650 all providers of communications services in accordance with s.
651 337.401.

652 (5) Require an incumbent cable service provider to comply
653 with customer service requirements reasonably comparable to, and
654 that do not exceed, the standards in 47 C.F.R. s. 76.309(c).
655 Such requirements shall only apply until there are two or more
656 providers offering service, excluding direct-to-home satellite
657 service, in the relevant service area. In addition, the
658 municipality or county may require that cable service quality
659 complaints from customers of an ordinance certificateholder
660 within the jurisdiction of the municipality or county be filed
661 with an appropriate municipal or county office or agency. This
662 subsection shall not be construed to permit the municipality or
663 county to impose customer service standards in conflict with
664 this section. The municipality or county must require the

665 applicable municipal or county agency to address customer
666 service complaints expeditiously by assisting with the
667 resolution of such complaints between the complainant and the
668 certificateholder.

669 (6) Require an ordinance certificateholder to update the
670 information contained in the original application for an
671 ordinance certificate no more frequently than once every 3
672 years.

673 610.108 Application process; statutory certificate of
674 franchise authority.--When a person or entity applies for a
675 statutory certificate of franchise authority under s. 610.105,
676 the following provisions apply:

677 (1) Before the 10th business day after an applicant for a
678 certificate of franchise authority submits the affidavit
679 described in subsection (2), the department shall notify the
680 applicant whether the applicant's affidavit is complete. If the
681 department denies the application, the department must specify
682 with particularity the reasons for the denial and permit the
683 applicant to amend the application to cure any deficiency. The
684 department shall act upon such amended application within 5
685 business days.

686 (2) The department shall issue a certificate of franchise
687 authority to offer cable service before the 15th business day
688 after receipt of a completed affidavit submitted by an applicant
689 and signed by an officer or general partner of the applicant
690 affirming:

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

694 (b) That the applicant agrees to comply with all
695 applicable federal and state laws and regulations, to the extent
696 that such state laws and rules are not in conflict with or
697 superseded by the provisions of this chapter or other applicable
698 state law.

699 (c) That the applicant agrees to comply with all lawful
700 state laws and rules and municipal and county ordinances and
701 regulations regarding the placement and maintenance of
702 communications facilities in the public right-of-way that are
703 generally applicable to providers of communications services in
704 accordance with s. 337.401.

705 (d) A description of the service area for which the
706 applicant seeks a certificate of franchise authority, which need
707 not be coextensive with municipal, county, or other political
708 boundaries.

709 (e) The location of the applicant's principal place of
710 business and the names of the applicant's principal executive
711 officers.

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

714 (g) That the applicant has sufficient technical,
715 financial, and managerial capability to provide cable service
716 within the service area for which the applicant seeks a
717 certificate of franchise authority. At the time of the filing of

718 the affidavit, the applicant shall furnish its most recent
719 unqualified audited financial statement if a publicly available
720 audited financial report for the applicant or its parent entity
721 is not available.

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

725 (3) If the department fails to act on the application
726 within 30 business days after receiving the application, the
727 application shall have been deemed granted by the department
728 without further action.

729 (4) The certificate of franchise authority issued by the
730 department shall contain:

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

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

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

739 (5) A certificateholder that seeks to include additional
740 service areas in its current certificate shall file notice with
741 the department that reflects the new service area or areas to be
742 served.

743 (6) The certificate of franchise authority issued by the
744 department is fully transferable to any successor in interest to

745 the applicant to which the certificate is initially granted. A
746 notice of transfer shall be filed with the department and the
747 relevant municipality or county within 14 business days
748 following the completion of such transfer.

749 (7) The certificate of franchise authority issued by the
750 department may be terminated by the cable service provider by
751 submitting notice to the department.

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

755 (9) The department may adopt any procedural rules and
756 regulations pursuant to ss. 120.536(1) and 120.54 necessary to
757 implement this section. Failure of an applicant to comply with
758 procedural rules and regulations adopted by the department to
759 implement this section shall not be a basis for denial of a
760 certificate if the affidavit is submitted before the department
761 adopts such procedural rules and regulations.

762 (10) The department may revoke an ordinance or statutory
763 certificate of franchise authority for any area as to which a
764 court of competent jurisdiction finds, pursuant to s. 610.117,
765 that a certificateholder is in noncompliance with the
766 requirements of this chapter after notice and a reasonable time
767 to cure the noncompliance.

768 (11) The department may establish a standard application
769 form and if such a form is created, applications shall be on
770 such form and must be accompanied by a one-time application fee
771 established by the department, not to exceed \$10,000. The fee

772 shall be based on the costs incurred by the department in
773 performing its duties under the provisions of ss. 610.102-
774 610.118.

775 (12) Beginning 3 years after approval of the
776 certificateholder's initial ordinance or statutory certificate
777 of franchise, and every 3 years thereafter, the
778 certificateholder shall update the information contained in the
779 original application for a certificate of franchise. At the time
780 of the filing of the information update, the certificateholder
781 shall pay a processing fee, not to exceed \$1,000, for the costs
782 incurred by the department in the handling of the information
783 update.

784 (13) Beginning 10 years after approval of the
785 certificateholder's initial ordinance or statutory certificate
786 of franchise, and every 10 years thereafter, the
787 certificateholder shall file a renewal notice accompanied by an
788 affidavit that contains the information required by subsection
789 (4). At the time of the filing of the renewal notice, the
790 certificateholder shall pay a fee, not to exceed \$10,000,
791 established by the department. The certificateholder may elect
792 to renew any or all of its ordinance and statutory certificates
793 in a single filing with the department subject to a single
794 filing fee. The fee shall be based on the costs incurred by the
795 department in performing its duties under this subsection. Upon
796 receipt of the notice of renewal and payment of the fee, the
797 certificates shall be deemed automatically renewed unless the
798 department files a notice of deficiency within 30 days. The

799 certificateholder shall have 30 days to cure any deficiency in
 800 its renewal notice. A deficiency with respect to a particular
 801 municipality or county shall not affect the renewal of the
 802 certificates with respect to any other service area.

803 610.109 Eligibility of incumbent cable provider for
 804 ordinance or statutory certificate of franchise authority.--

805 (1) Except as provided in subsection (4), an incumbent
 806 cable service provider that has an existing, unexpired franchise
 807 to provide cable service with respect to a municipality or
 808 county as of July 1, 2006, is not eligible to seek an ordinance
 809 or statutory certificate of franchise authority under this
 810 chapter as to that municipality or county until the expiration
 811 date of the existing franchise agreement.

812 (2) For purposes of this section, a cable service provider
 813 will be deemed to have or have had a franchise to provide cable
 814 service in a specific municipality or county if any affiliate or
 815 successor entity of the cable service provider has or had a
 816 franchise agreement granted by that specific municipality or
 817 county.

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

823 (4) Notwithstanding subsection (1), a cable service
 824 provider may elect to terminate an existing municipal or county
 825 franchise and seek an ordinance or statutory certificate of

826 franchise authority with respect to such municipality or county
827 on January 1, 2007, or the date on which such municipality or
828 county adopts a standard ordinance pursuant to s. 610.104,
829 whichever is earlier. The cable service provider may terminate
830 its existing franchise under this subsection by providing
831 written notice to the Secretary of State and the affected
832 municipality or county within 180 days following the issuance of
833 the ordinance or statutory certificate of franchise authority to
834 the nonincumbent cable service provider. The municipal or county
835 franchise is terminated on the date the ordinance or statutory
836 certificate of franchise authority is granted with respect to
837 such municipality or county to the cable service provider.

838 610.110 Franchise fee prohibited.--Except as otherwise
839 provided in this chapter, the department may not impose any
840 taxes, fees, charges, or other impositions on a cable service
841 provider as a condition for the issuance of an ordinance or
842 statutory certificate of franchise authority. Except as
843 otherwise provided in this chapter, no municipality or county
844 may impose any taxes, fees, charges, or other exactions on
845 certificateholders in connection with use of public right-of-way
846 as a condition of a certificateholder doing business in the
847 municipality or county, or otherwise, except such taxes, fees,
848 charges, or other exactions permitted by chapter 202, s.
849 337.401(6), and this chapter.

850 610.111 Buildout.--Except as otherwise provided in s.
851 610.1075(3), no franchise authority, state agency, or political
852 subdivision may impose any buildout requirements on a

853 certificateholder. However, each certificateholder, if requested
854 pursuant to a bona fide order for cable service, shall make
855 cable service available at each building used for municipal or
856 county purposes, including, but not limited to, emergency
857 operations centers, fire stations, and public schools within the
858 area described in its application under s. 610.108(2)(d), as
859 applicable, within 5 years after the date of the issuance of its
860 certificate by the department, using the technology of its
861 choice.

862 610.112 Customer service standards.--

863 (1) An incumbent cable service provider shall comply with
864 customer service requirements reasonably comparable to, and that
865 do not exceed, the standards in 47 C.F.R. s. 76.309(c) until
866 there are two or more providers offering service, excluding
867 direct-to-home satellite service, in the relevant service area.

868 (2) The Department of Agriculture and Consumer Services
869 shall receive service quality complaints from customers of a
870 statutory certificateholder. The Department of Agriculture and
871 Consumer Services may adopt any procedural rules pursuant to ss.
872 120.536(1) and 120.54 necessary to implement this section.

873 (3) The Department of Agriculture and Consumer Services
874 shall address customer service complaints expeditiously by
875 assisting with the resolution of such complaints between the
876 complainant and the certificateholder.

877 610.113 Public, educational, and governmental access
878 channels.--

879 (1) A certificateholder, not later than 180 days following
880 a request by a municipality or county within whose jurisdiction
881 the certificateholder is providing cable service, shall
882 designate a sufficient amount of capacity on its network to
883 allow the provision of public, educational, and governmental
884 access channels for noncommercial programming as set forth in
885 this section and in a municipal or county franchise pursuant to
886 s. 610.1075(1).

887 (2) A certificateholder shall designate a sufficient
888 amount of capacity on its network to allow the provision of a
889 comparable number of public, educational, and governmental
890 access channels or capacity equivalent that a municipality or
891 county has activated under the incumbent cable service
892 provider's franchise agreement as of July 1, 2006, or the number
893 of channels or capacity set forth in paragraphs (3)(a) and (b),
894 whichever is greater. For the purposes of this section, a
895 public, educational, or governmental channel is deemed activated
896 if the channel is being used for public, educational, or
897 governmental programming within the municipality or county for
898 at least 4 hours per day. The municipality or county may request
899 additional channels or capacity up to the equivalent permitted
900 under the incumbent cable service provider's franchise agreement
901 as of January 1, 2006, upon a showing that active channels are
902 substantially used, as set forth in subsection (5). Except as
903 provided in subsections (3)-(5), the certificateholder's
904 obligations under this subsection continue regardless of whether

905 the incumbent cable service provider, subsequent to July 1,
906 2006, becomes a certificateholder pursuant to this chapter.

907 (3) If a municipality or county did not have public,
908 educational, or governmental access channels activated under the
909 incumbent cable service provider's franchise agreement as of
910 July 1, 2006, not later than 180 days following a request by the
911 municipality or county within whose jurisdiction a
912 certificateholder is providing cable service, the cable service
913 provider shall furnish:

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

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

920 (4) Any public, educational, or governmental channel
921 provided pursuant to this section that, within 6 months after it
922 is initially provided, is not used by the municipality or county
923 for at least 10 hours a day shall no longer be made available to
924 the municipality or county but may be programmed at the cable
925 service provider's discretion. At such time as the municipality
926 or county can certify to the cable service provider a schedule
927 for at least 10 hours of daily programming, the cable service
928 provider shall restore the previously lost channel but shall be
929 under no obligation to carry that channel on a basic or analog
930 tier.

931 (5) If a municipality or county has not used the number of
932 access channels or capacity equivalent permitted by subsection
933 (2) or subsection (3), access to the additional channels or
934 capacity equivalent allowed in subsection (2) or subsection (3)
935 shall be provided upon 180 days' written notice if the
936 municipality or county meets the following standard:

937 (a) If a municipality or county has one active public,
938 educational, or governmental channel and wishes to activate an
939 additional public, educational, or governmental channel, the
940 initial channel shall be considered to be substantially used
941 when 12 hours are programmed on that channel each calendar day.
942 In addition, at least 40 percent of the 12 hours of programming
943 for each business day on average over each calendar quarter must
944 be nonrepeat programming. Nonrepeat programming shall include
945 the first three videocastings of a program.

946 (b) If a municipality or county is entitled to three
947 public, educational, or governmental channels under subsection
948 (3) and has in service two active public, educational, or
949 governmental channels, each of the two active channels shall be
950 considered to be substantially used when 12 hours are programmed
951 on each channel each calendar day and at least 50 percent of the
952 12 hours of programming for each business day on average over
953 each calendar quarter is nonrepeat programming for three
954 consecutive calendar quarters.

955 (6) The operation of any public, educational, or
956 governmental access channel or capacity equivalent provided
957 under this section shall be the responsibility of the

958 municipality or county receiving the benefit of such channel or
959 capacity equivalent, and a certificateholder bears only the
960 responsibility for the transmission of such channel content. A
961 certificateholder shall be responsible for providing the
962 connectivity to each public, educational, or governmental access
963 channel distribution point up to the first 200 feet.

964 (7) The municipality or county shall ensure that all
965 transmissions, content, or programming to be transmitted over a
966 channel or facility by a certificateholder are provided or
967 submitted to the cable service provider in a manner or form that
968 is capable of being accepted and transmitted by a provider
969 without any requirement for additional alteration or change in
970 the content by the provider over the provider's network and is
971 compatible with the technology or protocol used by the cable
972 service provider to deliver services. The provision of public,
973 educational, or governmental content to the provider constitutes
974 authorization for the provider to carry such content, including,
975 at the provider's option, authorization to carry the content
976 beyond the jurisdictional boundaries of the municipality or
977 county.

978 (8) Where technically feasible, a certificateholder and an
979 incumbent cable service provider shall use reasonable efforts to
980 interconnect their cable systems for the purpose of providing
981 public, educational, and governmental programming.
982 Interconnection may be accomplished by direct cable, microwave
983 link, satellite, or other reasonable method of connection.
984 Certificateholders and incumbent cable service providers shall

985 negotiate in good faith and incumbent cable service providers
986 may not withhold interconnection of public, educational, and
987 governmental channels.

988 (9) A certificateholder is not required to interconnect
989 for, or otherwise transmit, public, educational, and
990 governmental content that is branded with the logo, name, or
991 other identifying marks of another cable service provider, and a
992 municipality or county may require a cable service provider to
993 remove its logo, name, or other identifying marks from public,
994 educational, and governmental content that is to be made
995 available to another provider.

996 (10) A court of competent jurisdiction shall have
997 exclusive jurisdiction to enforce any requirement under this
998 section.

999 (11) In support of the capital costs incurred by the
1000 municipality or county in connection with the construction or
1001 operation of public, educational, or governmental access
1002 facilities and content provided by a municipality or county
1003 pursuant to this section, the certificateholder shall pay to the
1004 municipality or county 1 percent of the certificateholder's
1005 sales price, as defined in s. 202.11(13), for the retail sale of
1006 cable services provided to customers located within the
1007 respective municipal or county boundaries, based upon the
1008 certificateholder's books and records, for a period of 2 years
1009 after the date the department issues a certificate to the
1010 certificateholder. After the expiration of the 2-year period,
1011 the certificateholder shall pay and the municipality or county

1012 shall continue to receive up to 1 percent of such sales price in
 1013 support of the capital costs incurred by the municipality or
 1014 county in connection with the construction or operation of
 1015 public, educational, or governmental access facilities and
 1016 content provided by the municipality or county only if the
 1017 governing body of the municipality or county affirmatively
 1018 approves such continued payment. Upon such affirmative vote of
 1019 approval, the certificateholder may recover from the customer
 1020 its costs of the payment through a separately stated charge on
 1021 the customer's bill. All payments made pursuant to this
 1022 subsection shall be made in the same manner as, and as a part
 1023 of, the certificateholder's payment of communications services
 1024 tax pursuant to s. 202.27, and all definitions, exemptions, and
 1025 administrative provisions of chapter 202 shall apply to such
 1026 payments.

1027 610.114 Nondiscrimination by municipality or county.--

1028 (1) A municipality or county shall allow a
 1029 certificateholder to install, construct, and maintain a network
 1030 within a public right-of-way and shall provide a
 1031 certificateholder with nondiscriminatory and competitively
 1032 neutral access to the public right-of-way in accordance with the
 1033 provisions of s. 337.401. All use of a public right-of-way by a
 1034 certificateholder is nonexclusive.

1035 (2) A municipality or county may not discriminate against
 1036 a certificateholder regarding:

1037 (a) The authorization or placement of a network in a
 1038 public right-of-way;

1039 (b) Access to a building or other property; or
 1040 (c) Utility pole attachment terms.
 1041 (3) Except as expressly provided in this chapter, nothing
 1042 contained in this chapter shall be construed to limit or
 1043 abrogate the municipality's or county's authority over the use
 1044 of public right-of-way under its jurisdiction, as set forth in
 1045 s. 337.401(3) (a).

1046 610.115 Limitation on local authority.--

1047 (1) A municipality or county may not impose additional
 1048 requirements on a certificateholder, including, but not limited
 1049 to, financial, operational, and administrative requirements,
 1050 except as expressly permitted by this chapter. A municipality or
 1051 county may not impose on activities of a certificateholder a
 1052 requirement:

1053 (a) That particular business offices be located in the
 1054 municipality or county;

1055 (b) Regarding the filing of reports and documents with the
 1056 municipality or county that are not required by state or federal
 1057 law and that are not related to the use of the public right-of-
 1058 way. Reports and documents other than schematics indicating the
 1059 location of facilities for a specific site that are provided in
 1060 the normal course of the municipality's or county's permitting
 1061 process, that are authorized by s. 337.401 for communications
 1062 services providers, or that are otherwise required in the normal
 1063 course of such permitting process shall not be considered
 1064 related to the use of the public right-of-way for communications
 1065 services providers. A municipality or county may not request

1066 information concerning the capacity or technical configuration
 1067 of a certificateholder's facilities;

1068 (c) For the inspection of a certificateholder's business
 1069 records; or

1070 (d) For the approval of transfers of ownership or control
 1071 of a certificateholder's business, except a municipality or
 1072 county may require a certificateholder to provide notice of a
 1073 transfer within a reasonable time.

1074 (2) Notwithstanding any other provision of law, a
 1075 municipality or county may require the issuance of a permit in
 1076 accordance with and subject to s. 337.401 to a certificateholder
 1077 that is placing and maintaining facilities in or on a public
 1078 right-of-way in the municipality or county. In accordance with
 1079 s. 337.402, the permit may require the permitholder to be
 1080 responsible, at the permitholder's expense, for any damage
 1081 resulting from the issuance of such permit and for restoring the
 1082 public right-of-way to a substantially similar condition to that
 1083 of the public right-of-way before installation of such
 1084 facilities. The terms of the permit shall be consistent with
 1085 construction permits issued to other providers of communications
 1086 services placing or maintaining communications facilities in a
 1087 public right-of-way.

1088 610.116 Discrimination prohibited.--

1089 (1) The purpose of this section is to prevent
 1090 discrimination among potential residential subscribers.

1091 (2) Pursuant to 47 U.S.C. s. 541(a)(3), a
 1092 certificateholder may not deny access to service to any group of

1093 potential residential subscribers because of the income of the
 1094 residents in the local area in which such group resides.

1095 (3) An affected person may seek enforcement of the
 1096 requirements provided by subsection (2) by initiating a
 1097 proceeding with the Department of Agriculture and Consumer
 1098 Services pursuant to s. 570.544.

1099 (4) For purposes of determining whether a
 1100 certificateholder has violated subsection (2), cost, density,
 1101 distance, and technological or commercial limitations shall be
 1102 taken into account, and the certificateholder shall have a
 1103 reasonable time to deploy service pursuant to 47 U.S.C. s.
 1104 541(a)(4)(A). Use of an alternative technology that provides
 1105 comparable content, service, and functionality may not be
 1106 considered a violation of subsection (2). The inability to serve
 1107 an end user because a certificateholder is prohibited from
 1108 placing its own facilities in a building or property is not a
 1109 violation of subsection (2). This section may not be construed
 1110 to authorize any buildout requirements on a certificateholder.

1111 (5) The Department of Agriculture and Consumer Services
 1112 may adopt any procedural rules pursuant to ss. 120.536(1) and
 1113 120.54 necessary to implement this section.

1114 610.117 Compliance.--If a certificateholder is found by a
 1115 court of competent jurisdiction to not comply with the
 1116 requirements of this chapter, the certificateholder shall have a
 1117 reasonable period of time, as specified by the court, to cure
 1118 such noncompliance.

1119 610.118 Applicability to competitive video programming
 1120 services.--A provider of competitive video programming services
 1121 shall apply for and obtain an ordinance or statutory certificate
 1122 of franchise authority under ss. 610.102-610.118, including all
 1123 rights and obligations associated therewith, before providing
 1124 service in the state, notwithstanding that competitive video
 1125 programming service is not a cable service as defined s.
 1126 610.103. For purposes of ss. 610.102-610.118, the term
 1127 "competitive video programming services" means video programming
 1128 provided through wireline facilities located at least in part of
 1129 the public right-of-way without regard to delivery technology,
 1130 including Internet protocol technology, provided that this
 1131 definition does not include any video programming provided by a
 1132 cable service operator; any video programming provided via an
 1133 Internet access service, as that term is defined in 47 U.S.C. s.
 1134 231(e) (4); or any video programming service provided by a
 1135 commercial mobile service provider defined in 47 U.S.C. s.
 1136 322(b) .

1137 Section 6. Reports to the Legislature.--On December 1,
 1138 2009, the Office of Program Policy Analysis and Governmental
 1139 Accountability shall submit to the President of the Senate, the
 1140 Speaker of the House of Representatives, and the majority and
 1141 minority leaders of the Senate and House of Representatives a
 1142 report on the status of competition in the cable service
 1143 industry, including, by each municipality and county, the number
 1144 of cable service providers, the number of cable subscribers
 1145 served, the number of areas served by fewer than two cable

1146 service providers, the trend in cable prices, and the
 1147 identification of any patterns of service as they impact
 1148 demographic and income groups.

1149 Section 7. Severability.--If any provision of ss. 610.102-
 1150 610.118, Florida Statutes, or the application thereof to any
 1151 person or circumstance is held invalid, such invalidity shall
 1152 not affect other provisions or applications of ss. 610.102-
 1153 610.118, Florida Statutes, that can be given effect without the
 1154 invalid provision or application, and to this end the provisions
 1155 of ss. 610.102-610.118, Florida Statutes, are severable.

1156 Section 8. Section 166.046, Florida Statutes, is repealed.

1157 Section 9. Paragraph (a) of subsection (3) of section
 1158 350.81, Florida Statutes, is amended to read:

1159 350.81 Communications services offered by governmental
 1160 entities.--

1161 (3) (a) A governmental entity that provides a cable service
 1162 shall comply with the Cable Communications Policy Act of 1984,
 1163 47 U.S.C. ss. 521 et seq., the regulations issued by the Federal
 1164 Communications Commission under the Cable Communications Policy
 1165 Act of 1984, 47 U.S.C. ss. 521 et seq., and all applicable state
 1166 and federal rules and regulations, including, but not limited
 1167 to, ~~s. 166.046~~ and those provisions of chapters 202, 212, and
 1168 337, and 610 which apply to a provider of the services.

1169 Section 10. Section 364.0361, Florida Statutes, is amended
 1170 to read:

1171 364.0361 Local government authority; nondiscriminatory
 1172 exercise.--A local government shall treat each

1173 telecommunications company in a nondiscriminatory manner when
 1174 exercising its authority to grant franchises to a
 1175 telecommunications company or to otherwise establish conditions
 1176 or compensation for the use of rights-of-way or other public
 1177 property by a telecommunications company. A local government may
 1178 not directly or indirectly regulate the terms and conditions,
 1179 including, but not limited to, the operating systems,
 1180 qualifications, services, service quality, service territory,
 1181 and prices, applicable to or in connection with the provision of
 1182 any voice-over-Internet protocol, regardless of the platform,
 1183 provider, or protocol, broadband or information service. This
 1184 section does not relieve a provider from any obligations under
 1185 ~~s. 166.046~~ or s. 337.401.

1186 Section 11. The recurring sum of \$850,116 is appropriated
 1187 from the General Revenue Fund, with 15 FTE and 618,721 in salary
 1188 rate, to the Division of Corporations of the Department of State
 1189 to implement the provisions of this act.

1190 Section 12. Any deed restriction or restrictive covenant
 1191 recorded prior to July 1, 2006, with respect to a parcel of land
 1192 zoned for and occupied by a single family dwelling that requires
 1193 the owner of the parcel of land to purchase cable service from a
 1194 particular provider to the exclusion of other cable service
 1195 providers may be voided at the option of the purchaser of the
 1196 parcel at the time of sale.

1197 Section 13. This act shall take effect July 1, 2006.