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1 A bill to be entitled
2 An act relating to communications; providing a short
3 title; providing legislative findings; providing
4 legislative intent; amending s. 202.11, F.S.; providing a
5 definition; amending s. 202.24, F.S.; prohibiting counties
6 and municipalities from negotiating terms and conditions
7 relating to cable and video services; deleting
8 authorization to negotiate; revising application to
9 existing ordinances or franchise agreements; amending s.
10 337.401, F.S.; deleting authorization for counties and
11 municipalities to award cable service franchises and a
12 restriction that cable service companies not operate
13 without such a franchise; amending s. 337.4061, F.S.;
14 revising definitions; creating ss. 610.102, 610.103,
15 610.104, 610.105, 610.106, 610.107, 610.108, 610.109,
16 610.112, 610.113, 610.114, 610.115, 610.116, 610.117,
17 620.118, 610.119 and 610.120, F.S.; designating the
18 Department of State as the authorizing authority;
19 providing definitions; requiring state authorization to
20 provide cable and video services; providing requirements
21 and procedures; providing for fees; providing duties and
22 responsibilities of the Department of State; providing
23 application procedures and requirements; providing for
24 issuing certificates of franchise authority; providing
25 eligibility requirements and criteria for a certificate;
26 providing for amending a certificate; providing for
27 transferability of certificates; providing for termination
28 of certificates under certain circumstances; providing for

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29 | challenging a department rejection of an application;
30 | providing that the department shall function in a
31 | ministerial capacity for certain purposes; providing for
32 | an application form; providing for an application fee;
33 | requiring certain information updates; providing for a
34 | processing fee; providing for cancellation upon notice
35 | that information updates and processing fees are not
36 | received; providing for an opportunity to cure; providing
37 | for transfer of such fees to the Department of Agriculture
38 | and Consumer Services; requiring the department to
39 | maintain a separate account for cable franchise revenues;
40 | providing for fees to the Department of State for certain
41 | activities; providing for incumbent cable service provider
42 | eligibility for state-issued franchises; providing for
43 | certain notice to municipal or county franchise authority;
44 | providing for termination of a municipal or county
45 | franchise; declaring certain additional obligations on a
46 | franchisee against public policy and void; prohibiting the
47 | department from imposing additional taxes, fees, or
48 | charges on a cable or video service provider to issue a
49 | certificate; prohibiting imposing buildout, construction,
50 | and deployment requirements on a certificateholder;
51 | imposing certain customer service requirements on cable
52 | service providers; allowing a municipality or county to
53 | respond to complaints for a time certain; requiring the
54 | Department of Agriculture and Consumer Services to receive
55 | customer service complaints; requiring provision of
56 | public, educational, and governmental access channels or

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57 | their functional equivalent; providing criteria,
58 | requirements, and procedures; providing exceptions;
59 | providing responsibilities of municipalities and counties
60 | relating to such channels; providing for cable or video
61 | services for certain public facilities; providing
62 | requirements for and limitations on counties and
63 | municipalities relating to access to public right-of-way;
64 | prohibiting counties and municipalities from imposing
65 | additional requirements on certificateholders; authorizing
66 | counties and municipalities to require permits of
67 | certificateholders relating to public right-of-way;
68 | providing permit criteria and requirements; prohibiting
69 | discrimination among cable and video service subscribers;
70 | providing for enforcement; clarifying local government and
71 | department authority over communications services;
72 | providing for enforcement of compliance by
73 | certificateholders; providing for court-ordered operation
74 | under existing franchise agreements; providing
75 | requirements for cable service providers under certain
76 | court orders; requiring the Office of Program Policy
77 | Analysis and Government Accountability to report to the
78 | Legislature on the status of competition in the cable and
79 | video service industry; providing report requirements;
80 | requiring the Department of Agriculture and Consumer
81 | Services to make recommendations to the Legislature;
82 | providing duties of the Department of State; providing
83 | severability; amending ss. 350.81 and 364.0361, F.S.;
84 | conforming cross-references; amending s. 364.051, F.S.;

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85 deleting provisions under which certain telecommunications
86 companies may elect alternative regulation; amending s.
87 364.10, F.S.; providing requirements for enrolling certain
88 persons in the Lifeline service program; requiring the
89 Public Service Commission to adopt rules by a specified
90 date; requiring the commission, the Department of Children
91 and Family Services, and the Office of Public Counsel to
92 enter into a memorandum of understanding of respective
93 duties under the Lifeline service program; amending s.
94 364.163, F.S.; providing for a cap on certain switched
95 network access service rates; deleting a time period in
96 which intrastate access rates are capped; prohibiting
97 interexchange telecommunications companies from
98 instituting any intrastate connection fee; deleting
99 provisions for regulatory oversight of intrastate access
100 rates; amending s. 364.385, F.S.; providing for continuing
101 effect of certain rates and charges approved by the Public
102 Service Commission; providing for an exception; repealing
103 s. 166.046, F.S., relating to definitions and minimum
104 standards for cable television franchises imposed upon
105 counties and municipalities; repealing s. 364.164, F.S.,
106 relating to competitive market enhancement; creating s.
107 501.2079, F.S.; providing for violations involving
108 discrimination in delivery of video service; providing
109 definitions; prohibiting discrimination; providing a time
110 to cure; providing criteria; providing for enforcement;
111 providing remedies; providing an effective date.

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113 Be It Enacted by the Legislature of the State of Florida:

114

115 Section 1. This act may be cited as the "Consumer Choice
 116 Act of 2007."

117 Section 2. The Legislature finds that providing an
 118 incumbent cable or video service provider with the option to
 119 secure a statutory certificate franchise through the preemption
 120 of an existing cable franchise between a cable or video service
 121 provider and any political subdivision of the state, including,
 122 but not limited to, any municipality or county, is an essential
 123 element of the new regulatory framework established by this act
 124 as a matter of statewide concern to best ensure equal protection
 125 and parity among providers and technologies, as well as to
 126 achieve the goals stated by the Legislature in enacting this
 127 act.

128 Section 3. Subsection (24) is added to section 202.11,
 129 Florida Statutes, to read:

130 202.11 Definitions.--As used in this chapter:

131 (24) "Video service" has the same meaning as that provided
 132 in s. 610.103.

133 Section 4. Paragraphs (a) and (c) of subsection (2) of
 134 section 202.24, Florida Statutes, are amended to read:

135 202.24 Limitations on local taxes and fees imposed on
 136 dealers of communications services.--

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

139 1. Levying on or collecting from dealers or purchasers of
 140 communications services any tax, charge, fee, or other

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141 imposition on or with respect to the provision or purchase of
 142 communications services.

143 2. Requiring any dealer of communications services to
 144 enter into or extend the term of a franchise or other agreement
 145 that requires the payment of a tax, charge, fee, or other
 146 imposition.

147 3. Adopting or enforcing any provision of any ordinance or
 148 agreement to the extent that such provision obligates a dealer
 149 of communications services to charge, collect, or pay to the
 150 public body a tax, charge, fee, or other imposition.

151
 152 Municipalities and counties may not ~~Each municipality and county~~
 153 ~~retains authority to negotiate all terms and conditions of a~~
 154 ~~cable service franchise allowed by federal and state law except~~
 155 those terms and conditions related to franchise fees or ~~and~~ the
 156 definition of gross revenues or other definitions or
 157 methodologies related to the payment or assessment of franchise
 158 fees on providers of cable or video services.

159 (c) This subsection does not apply to:

160 1. Local communications services taxes levied under this
 161 chapter.

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

163 3. Occupational license taxes levied under chapter 205.

164 4. "911" service charges levied under chapter 365.

165 5. Amounts charged for the rental or other use of property
 166 owned by a public body which is not in the public rights-of-way
 167 to a dealer of communications services for any purpose,
 168 including, but not limited to, the placement or attachment of

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169 equipment used in the provision of communications services.

170 6. Permit fees of general applicability which are not
 171 related to placing or maintaining facilities in or on public
 172 roads or rights-of-way.

173 7. Permit fees related to placing or maintaining
 174 facilities in or on public roads or rights-of-way pursuant to s.
 175 337.401.

176 8. Any in-kind requirements, institutional networks, or
 177 contributions for, or in support of, the use or construction of
 178 public, educational, or governmental access facilities allowed
 179 under federal law and imposed on providers of cable or video
 180 service pursuant to any existing ordinance or an existing
 181 franchise agreement granted by each municipality or county,
 182 under which ordinance or franchise agreement service is provided
 183 prior to July 1, 2007, or as permitted under chapter 610.

184 Nothing in this subparagraph shall prohibit the ability of
 185 providers of cable or video service to recover such expenses as
 186 allowed under federal law.

187 9. Special assessments and impact fees.

188 10. Pole attachment fees that are charged by a local
 189 government for attachments to utility poles owned by the local
 190 government.

191 11. Utility service fees or other similar user fees for
 192 utility services.

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

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197 Section 5. Paragraphs (a), (b), (e), and (f) of subsection
 198 (3) of section 337.401, Florida Statutes, are amended to read:

199 337.401 Use of right-of-way for utilities subject to
 200 regulation; permit; fees.--

201 (3)(a)~~1-~~ Because of the unique circumstances applicable to
 202 providers of communications services, including, but not limited
 203 to, the circumstances described in paragraph (e) and the fact
 204 that federal and state law require the nondiscriminatory
 205 treatment of providers of telecommunications services, and
 206 because of the desire to promote competition among providers of
 207 communications services, it is the intent of the Legislature
 208 that municipalities and counties treat providers of
 209 communications services in a nondiscriminatory and competitively
 210 neutral manner when imposing rules or regulations governing the
 211 placement or maintenance of communications facilities in the
 212 public roads or rights-of-way. Rules or regulations imposed by a
 213 municipality or county relating to providers of communications
 214 services placing or maintaining communications facilities in its
 215 roads or rights-of-way must be generally applicable to all
 216 providers of communications services and, notwithstanding any
 217 other law, may not require a provider of communications
 218 services, ~~except as otherwise provided in subparagraph 2.,~~ to
 219 apply for or enter into an individual license, franchise, or
 220 other agreement with the municipality or county as a condition
 221 of placing or maintaining communications facilities in its roads
 222 or rights-of-way. In addition to other reasonable rules or
 223 regulations that a municipality or county may adopt relating to
 224 the placement or maintenance of communications facilities in its

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225 roads or rights-of-way under this subsection, a municipality or
226 county may require a provider of communications services that
227 places or seeks to place facilities in its roads or rights-of-
228 way to register with the municipality or county and to provide
229 the name of the registrant; the name, address, and telephone
230 number of a contact person for the registrant; the number of the
231 registrant's current certificate of authorization issued by the
232 Florida Public Service Commission, or the Federal Communications
233 Commission, or the Department of State; and proof of insurance
234 or self-insuring status adequate to defend and cover claims.

235 ~~2. Notwithstanding the provisions of subparagraph 1., a~~
236 ~~municipality or county may, as provided by 47 U.S.C. s. 541,~~
237 ~~award one or more franchises within its jurisdiction for the~~
238 ~~provision of cable service, and a provider of cable service~~
239 ~~shall not provide cable service without such franchise. Each~~
240 ~~municipality and county retains authority to negotiate all terms~~
241 ~~and conditions of a cable service franchise allowed by federal~~
242 ~~law and s. 166.046, except those terms and conditions related to~~
243 ~~franchise fees and the definition of gross revenues or other~~
244 ~~definitions or methodologies related to the payment or~~
245 ~~assessment of franchise fees and permit fees as provided in~~
246 ~~paragraph (c) on providers of cable services. A municipality or~~
247 ~~county may exercise its right to require from providers of cable~~
248 ~~service in-kind requirements, including, but not limited to,~~
249 ~~institutional networks, and contributions for, or in support of,~~
250 ~~the use or construction of public, educational, or governmental~~
251 ~~access facilities to the extent permitted by federal law. A~~
252 ~~provider of cable service may exercise its right to recover any~~

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253 ~~such expenses associated with such in-kind requirements, to the~~
 254 ~~extent permitted by federal law.~~

255 (b) Registration described in paragraph ~~subparagraph~~ (a) ~~1-~~
 256 does not establish a right to place or maintain, or priority for
 257 the placement or maintenance of, a communications facility in
 258 roads or rights-of-way of a municipality or county. Each
 259 municipality and county retains the authority to regulate and
 260 manage municipal and county roads or rights-of-way in exercising
 261 its police power. Any rules or regulations adopted by a
 262 municipality or county which govern the occupation of its roads
 263 or rights-of-way by providers of communications services must be
 264 related to the placement or maintenance of facilities in such
 265 roads or rights-of-way, must be reasonable and
 266 nondiscriminatory, and may include only those matters necessary
 267 to manage the roads or rights-of-way of the municipality or
 268 county.

269 (e) The authority of municipalities and counties to
 270 require franchise fees from providers of communications
 271 services, with respect to the provision of communications
 272 services, is specifically preempted by the state, ~~except as~~
 273 ~~otherwise provided in subparagraph (a)2.7,~~ because of unique
 274 circumstances applicable to providers of communications services
 275 when compared to other utilities occupying municipal or county
 276 roads or rights-of-way. Providers of communications services may
 277 provide similar services in a manner that requires the placement
 278 of facilities in municipal or county roads or rights-of-way or
 279 in a manner that does not require the placement of facilities in
 280 such roads or rights-of-way. Although similar communications

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281 services may be provided by different means, the state desires
 282 to treat providers of communications services in a
 283 nondiscriminatory manner and to have the taxes, franchise fees,
 284 and other fees paid by providers of communications services be
 285 competitively neutral. Municipalities and counties retain all
 286 existing authority, if any, to collect franchise fees from users
 287 or occupants of municipal or county roads or rights-of-way other
 288 than providers of communications services, and the provisions of
 289 this subsection shall have no effect upon this authority. The
 290 provisions of this subsection do not restrict the authority, if
 291 any, of municipalities or counties or other governmental
 292 entities to receive reasonable rental fees based on fair market
 293 value for the use of public lands and buildings on property
 294 outside the public roads or rights-of-way for the placement of
 295 communications antennas and towers.

296 (f) Except as expressly allowed or authorized by general
 297 law and except for the rights-of-way permit fees subject to
 298 paragraph (c), a municipality or county may not levy on a
 299 provider of communications services a tax, fee, or other charge
 300 or imposition for operating as a provider of communications
 301 services within the jurisdiction of the municipality or county
 302 which is in any way related to using its roads or rights-of-way.
 303 A municipality or county may not require or solicit in-kind
 304 compensation, except as otherwise provided in s. 202.24(2)(c)8.
 305 or s. 610.109 ~~subparagraph (a)2.~~ Nothing in this paragraph shall
 306 impair any ordinance or agreement in effect on May 22, 1998, or
 307 any voluntary agreement entered into subsequent to that date,
 308 which provides for or allows in-kind compensation by a

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309 telecommunications company.

310 Section 6. Section 337.4061, Florida Statutes, is amended
311 to read:

312 337.4061 Definitions; unlawful use of state-maintained
313 road right-of-way by nonfranchised cable and video ~~television~~
314 services.--

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

316 (a) "Cable service" means:

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

319 2. Subscriber interaction, if any, which is required for
320 the selection or use of such video programming or other
321 programming service.

322 (b) "Cable system" means a facility, consisting of a set
323 of closed transmission paths and associated signal generation,
324 reception, and control equipment that is designed to provide
325 cable service which includes video programming and which is
326 provided to multiple subscribers within a community, but such
327 term does not include:

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

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

334 3. A facility that serves subscribers without using any
335 public right-of-way.

336 ~~4.3.~~ A facility of a common carrier that is subject, in

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337 whole or in part, to the provisions of Title II of the federal
 338 Communications Act of 1934, except ~~that~~ such facility shall be
 339 considered a cable system other than for purposes of 47 U.S.C.
 340 Section 541(c) to the extent such facility is used in the
 341 transmission of video programming directly to subscribers,
 342 unless the extent of such use is solely to provide interactive
 343 on-demand services; ~~or~~

344 5.4- Any facilities of any electric utility used solely
 345 for operating its electric utility systems; ~~or-~~

346 6. An open video system that complies with 47 U.S.C.
 347 Section 573.

348 (c) "Franchise" means an initial authorization or renewal
 349 thereof issued by a franchising authority, whether such
 350 authorization is designated as a franchise, permit, license,
 351 resolution, contract, certificate, agreement, or otherwise,
 352 which authorizes the construction or operation of a cable system
 353 or video service provider network facilities.

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

356 (e) "Person" means an individual, partnership,
 357 association, joint stock company, trust, corporation, or
 358 governmental entity.

359 (f) "Video programming" means programming provided by or
 360 generally considered comparable to programming provided by a
 361 television broadcast station or cable system.

362 (g) "Video service" has the same meaning as that provided
 363 in s. 610.103.

364 (2) It is unlawful to use the right-of-way of any state-

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365 maintained road, including appendages thereto, and also
 366 including, but not limited to, rest areas, wayside parks, boat-
 367 launching ramps, weigh stations, and scenic easements, to
 368 provide for cable or video service over facilities ~~purposes~~
 369 within a geographic area subject to a valid existing franchise
 370 for cable or video service, unless the cable or video service
 371 provider ~~system~~ using such right-of-way holds a franchise from a
 372 franchise authority ~~the municipality or county~~ for the area in
 373 which the right-of-way is located.

374 (3) A violation of this section shall be deemed a
 375 violation of s. 337.406.

376 Section 7. Sections 610.102, 610.103, 610.104, 610.105,
 377 610.106, 610.107, 610.108, 610.109, 610.112, 610.113, 610.114,
 378 610.115, 610.116, 610.117, 610.118, 610.119, and 610.120,
 379 Florida Statutes, are created to read:

380 610.102 Department of State authority to issue statewide
 381 cable and video franchise.--The department shall be designated
 382 as the franchising authority for a state-issued franchise for
 383 the provision of cable or video service. A municipality or
 384 county may not grant a new franchise for the provision of cable
 385 or video service within its jurisdiction.

386 610.103 Definitions.--As used in ss. 610.102-610.117:

387 (1) "Cable service" means:

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

390 (b) Subscriber interaction, if any, that is required for
 391 the selection or use of such video programming or other
 392 programming service.

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

395 (3) "Cable system" means a facility consisting of a set of
 396 closed transmission paths and associated signal generation,
 397 reception, and control equipment that is designed to provide
 398 cable service that includes video programming and that is
 399 provided to multiple subscribers within a community, but such
 400 term does not include:

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

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

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

409 (d) A facility of a common carrier that is subject, in
 410 whole or in part, to the provisions of Title II of the federal
 411 Communications Act of 1934 except that such facility shall be
 412 considered a cable system other than for purposes of 47 U.S.C.
 413 Section 541(c) to the extent such facility is used in the
 414 transmission of video programming directly to subscribers,
 415 unless the extent of such use is solely to provide interactive
 416 on-demand services;

417 (e) Any facilities of any electric utility used solely for
 418 operating its electric utility systems; or

419 (f) An open video system that complies with 47 U.S.C.
 420 Section 573.

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421 (4) "Certificateholder" means a cable or video service
 422 provider that has been issued and holds a certificate of
 423 franchise authority from the department.

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

425 (6) "Franchise" means an initial authorization or renewal
 426 of an authorization, regardless of whether the authorization is
 427 designated as a franchise, permit, license, resolution,
 428 contract, certificate, agreement, or otherwise, to construct and
 429 operate a cable system or video service provider network
 430 facilities in the public right-of-way.

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

433 (8) "Incumbent cable service provider" means a cable or
 434 video service provider providing cable or video service on July
 435 1, 2007.

436 (9) "Public right-of-way" means the area on, below, or
 437 above a public roadway, highway, street, sidewalk, alley, or
 438 waterway, including, without limitation, a municipal, county,
 439 state, district, or other public roadway, highway, street,
 440 sidewalk, alley, or waterway.

441 (10) "Video programming" means programming provided by, or
 442 generally considered comparable to programming provided by, a
 443 television broadcast station as set forth in 47 U.S.C. s.
 444 522(20).

445 (11) "Video service" means video programming services,
 446 including cable services, provided through wireline facilities
 447 located at least in part in the public rights-of-way without
 448 regard to delivery technology, including Internet protocol

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449 technology. This definition does not include any video
 450 programming provided by a commercial mobile service provider as
 451 defined in 47 U.S.C. s. 332(d), video programming provided as
 452 part of, and via a service that enables end users to access
 453 content, information, electronic mail, or other services offered
 454 over the public Internet.

455 (12) "Video service provider" means an entity providing
 456 video service.

457 610.104 State authorization to provide cable or video
 458 service.--

459 (1) An entity or person seeking to provide cable or video
 460 service in this state after July 1, 2007, shall file an
 461 application for a state-issued certificate of franchise
 462 authority with the department as required by this section.

463 (2) An applicant for a state-issued certificate of
 464 franchise authority to provide cable or video service shall
 465 submit to the Department of State an application that contains:

466 (a) The official name of the cable or video service
 467 provider.

468 (b) The street address of the principal place of business
 469 of the cable or video service provider.

470 (c) The federal employer identification number or the
 471 Department of State's document number.

472 (d) The name, address, and telephone number of an officer,
 473 partner, owner, member, or manager as a contact person for the
 474 cable or video service provider to whom questions or concerns
 475 may be addressed.

476 (e) A duly executed affidavit signed by an officer,

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477 partner, owner, or managing member affirming and containing:
 478 1. That the applicant is fully qualified under the
 479 provisions of this chapter to file an application and affidavit
 480 for a certificate of franchise authority.
 481 2. That the applicant has filed or will timely file with
 482 the Federal Communications Commission all forms required by that
 483 agency in advance of offering cable or video service in this
 484 state.
 485 3. That the applicant agrees to comply with all applicable
 486 federal and state laws and regulations, to the extent such state
 487 laws and rules are not in conflict with or superseded by the
 488 provisions of this chapter or other applicable state law.
 489 4. That the applicant agrees to comply with all state laws
 490 and rules and municipal and county ordinances and regulations
 491 regarding the placement and maintenance of communications
 492 facilities in the public rights-of-way that are generally
 493 applicable to providers of communications services in accordance
 494 with s. 337.401.
 495 5. A description of the service area for which the
 496 applicant seeks a certificate of franchise authority provided on
 497 a municipal or countywide basis. The description may be provided
 498 in a manner that does not disclose competitively sensitive
 499 information. Notwithstanding the foregoing:
 500 a. For incumbent cable or video service providers that
 501 have existing local franchise agreements, the service area shall
 502 be coextensive with the provider's service area description in
 503 the existing local franchise.
 504 b. For applicants using telecommunications facilities to

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505 provide video services, the service area shall be described in
506 terms of entire wire centers that may or may not be consistent
507 with municipal or county boundaries except any portion of a
508 specific wire center which will remain subject to an existing
509 cable or video franchise agreement until the earlier of the
510 agreement's expiration or termination.

511 6. The location of the applicant's principal place of
512 business, the names of the applicant's principal executive
513 officers, and a physical address sufficient for the purposes of
514 chapter 48.

515 7. That the applicant will file with the department a
516 notice of commencement of service within 5 business days after
517 first providing service in each area described in subparagraph
518 5.

519 8. A statement affirming that the applicant will notify
520 the department of any change of address or contact person.

521 9. The applicant's system shall comply with the Federal
522 Communications Commission's rules and regulations of the
523 Emergency Alert System.

524 (3) Before the 10th business day after the department
525 receives the application, the department shall notify the
526 applicant whether the application and affidavit described in
527 subsection (2) are complete. If the department rejects the
528 application and affidavit, the department shall specify with
529 particularity the reasons for the rejection and permit the
530 applicant to amend the application or affidavit to cure any
531 deficiency. The department shall act upon the amended
532 application or affidavit within 10 business days after the

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533 department's receipt of the amended application or affidavit.

534 (4) The department shall issue a certificate of franchise
535 authority to the applicant before the 15th business day after
536 receipt of an accepted application. The certificate of franchise
537 authority issued by the department shall contain:

538 (a) The name of the certificateholder and its
539 identification number.

540 (b) A grant of authority to provide cable or video service
541 as requested in the application.

542 (c) A grant of authority to construct, maintain, and
543 operate facilities through, upon, over, and under any public
544 right-of-way or waters, subject to the applicable governmental
545 permitting or authorization from the Board of Trustees of the
546 Internal Improvement Trust Fund.

547 (d) A statement that the grant of authority is subject to
548 lawful operation of the cable or video service by the applicant
549 or its successor in interest.

550 (e) A statement that describes the service area for which
551 this certificate of authority applies.

552 (f) A statement that includes the issuance date that shall
553 be the effective date of the commencement of this authority.

554 (5) If the department fails to act on the accepted
555 application within 30 business days after receiving the accepted
556 application, the application shall be deemed approved by the
557 department without further action.

558 (6) A certificateholder that seeks to include additional
559 service areas in its current certificate shall file an amendment
560 to the certificate with the department. Such amendment shall

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561 specify the name and address of the certificateholder, the new
 562 service area or areas to be served, consistent with subparagraph
 563 (2)(e)5., but need not be coextensive with municipal or county
 564 boundaries, and the effective date of commencement of operations
 565 in the new service area or areas. Such amendment shall be filed
 566 with the department within 5 business days after first providing
 567 service in each such additional area.

568 (7) The certificate of franchise authority issued by the
 569 department is fully transferable to any successor in interest to
 570 the applicant to which the certificate is initially granted. A
 571 notice of transfer shall be filed with the department and the
 572 relevant municipality or county within 14 business days
 573 following the completion of such transfer.

574 (8) The certificate of franchise authority issued by the
 575 department may be terminated by the cable or video service
 576 provider by submitting notice to the department.

577 (9) An applicant may challenge a rejection of an
 578 application by the department in a court of competent
 579 jurisdiction through a petition for mandamus.

580 (10) In executing the provisions of this section, the
 581 department shall function in a ministerial capacity accepting
 582 information contained in the application and affidavit at face
 583 value. The applicant shall ensure continued compliance with all
 584 applicable business formation, registration, and taxation
 585 provisions of law.

586 (11) The application shall be accompanied by a one-time
 587 fee of \$10,000. A parent company may file a single application
 588 covering itself and all of its subsidiaries and affiliates

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589 intending to provide cable or video service in the service areas
590 throughout the state as described in paragraph (3) (d), but the
591 entity actually providing such service in a given area shall
592 otherwise be considered the certificateholder under this act.

593 (12) Beginning 5 years after approval of the
594 certificateholder's initial certificate of franchise issued by
595 the department, and every 5 years thereafter, the
596 certificateholder shall update the information contained in the
597 original application for a certificate of franchise. At the time
598 of filing the information update, the certificateholder shall
599 pay a processing fee of \$1,000. Any certificateholder that fails
600 to file the updated information and pay the processing fee on
601 the 5-year anniversary dates shall be subject to cancellation of
602 its state-issued certificate of franchise authority if, upon
603 notice given to the certificateholder at its last address on
604 file with the department, the certificateholder fails to file
605 the updated information and pay the processing fee within 30
606 days after the date notice was mailed. The application and
607 processing fees imposed in this section shall be paid to the
608 Department of State for deposit into the Operating Trust Fund
609 for immediate transfer by the Chief Financial Officer to the
610 General Inspection Trust Fund of the Department of Agriculture
611 and Consumer Services. The Department of Agriculture and
612 Consumer Services shall maintain a separate account within the
613 General Inspection Trust Fund to distinguish cable franchise
614 revenues from all other funds. The application, any amendments
615 to the certificate, or information updates must be accompanied
616 by a fee to the Department of State equal to that for filing

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617 articles of incorporation pursuant to s. 607.0122(1).
 618 610.105 Eligibility for state-issued franchise.--
 619 (1) After July 1, 2007, an incumbent cable or video
 620 service provider is immediately eligible at its option to apply
 621 for a state-issued certificate of franchise authority under this
 622 chapter and shall file a written notice with the applicable
 623 municipality or county in which the provider provides cable or
 624 video service simultaneously with any filing with the department
 625 under this chapter. The applicable municipal or county franchise
 626 is terminated under this section on the date the department
 627 issues the state-issued certificate of franchise authority.
 628 (2) If an incumbent cable or video service provider has
 629 been granted a state-issued certificate of franchise authority
 630 that covers all or a portion of a municipality or county, any
 631 obligation under any existing municipal or county franchise that
 632 exceeds the obligations imposed on the certificateholder in the
 633 area covered by the certificate shall be against public policy
 634 and void.
 635 610.106 Franchise fees prohibited.--Except as otherwise
 636 provided in this chapter, the department may not impose any
 637 taxes, fees, charges, or other impositions on a cable or video
 638 service provider as a condition for the issuance of a state-
 639 issued certificate of franchise authority. No municipality or
 640 county may impose any taxes, fees, charges, or other exactions
 641 on certificateholders in connection with use of public right-of-
 642 way as a condition of a certificateholder doing business in the
 643 municipality or county, or otherwise, except such taxes, fees,
 644 charges, or other exactions permitted by chapter 202, s.

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645 337.401(6), or s. 610.117.

646 610.107 Buildout.--No franchising authority, state agency,
647 or political subdivision may impose any buildout, system
648 construction, or service deployment requirements on a
649 certificateholder.

650 610.108 Customer service standards.--

651 (1) All cable or video service providers shall comply with
652 customer service requirements in 47 C.F.R. s. 76.309(c).

653 (2) Any municipality or county that, as of January 1,
654 2007, has an office or department dedicated to responding to
655 cable or video service customer complaints may continue to
656 respond to such complaints until July 1, 2009. Beginning July 1,
657 2009, the Department of Agriculture and Consumer Services shall
658 have the sole authority to respond to all cable or video service
659 customer complaints. This provision does not permit the
660 municipality, county, or department to impose customer service
661 standards inconsistent with the requirements in 47 C.F.R. s.
662 76.309(c).

663 (3) The Department of Agriculture and Consumer Services
664 shall receive service quality complaints from customers of a
665 cable or video service provider and shall address such
666 complaints in an expeditious manner by assisting in the
667 resolution of such complaint between the complainant and the
668 cable or video service provider. The Department of Agriculture
669 and Consumer Services may adopt any procedural rules pursuant to
670 ss. 120.536(1) and 120.54 necessary to administer this section,
671 but shall not have any authority to impose any customer service
672 requirements inconsistent with those contained in 47 C.F.R. s.

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673 76.309(c).

674 610.109 Public, educational, and governmental access
675 channels.--

676 (1) A certificateholder, not later than 180 days following
677 a request by a municipality or county within whose jurisdiction
678 the certificateholder is providing cable or video service, shall
679 designate a sufficient amount of capacity on its network to
680 allow the provision of public, educational, and governmental
681 access channels for noncommercial programming as set forth in
682 this section.

683 (2) A certificateholder shall designate a sufficient
684 amount of capacity on its network to allow the provision of the
685 same number of public, educational, and governmental access
686 channels or their functional equivalent that a municipality or
687 county has activated under the incumbent cable or video service
688 provider's franchise agreement as of July 1, 2007. For the
689 purposes of this section, a public, educational, or governmental
690 channel is deemed activated if the channel is being used for
691 public, educational, or governmental programming within the
692 municipality or county. The municipality or county may request
693 additional channels or their functional equivalent permitted
694 under the incumbent cable or video service provider's franchise
695 agreement as of July 1, 2007. Upon the expiration of the
696 incumbent cable or video service provider's franchise agreement
697 or within 6 months after a request of a municipality or county
698 for an additional channel or its functional equivalent, a public
699 access channel or capacity equivalent may be furnished after a
700 polling of all subscribers of the cable or video service in

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701 their service area. The usage of one public access channel or
702 capacity equivalent shall be determined by a majority of all the
703 provider's subscribers in the jurisdiction. The video or cable
704 service subscribers must be provided with clear, plain language
705 informing them that public access is unfiltered programming and
706 may contain adult content.

707 (3) If a municipality or county did not have public,
708 educational, or governmental access channels activated under the
709 incumbent cable or video service provider's franchise agreement
710 as of July 1, 2007, after the expiration date of the incumbent
711 cable or video service provider's franchise agreement and within
712 6 months after a request by the municipality or county within
713 whose jurisdiction a certificateholder is providing cable or
714 video service, the certificateholder shall furnish up to two
715 public, educational, or governmental channels or their
716 functional equivalent. The usage of the channels or their
717 functional equivalent shall be determined by a majority of all
718 the video service provider's subscribers in the jurisdiction in
719 order of preference of all video service subscribers. Cable or
720 video service subscribers must be provided with clear, plain
721 language informing them that public access is unfiltered
722 programming and contains adult content.

723 (4) If a municipality or county has not used the number of
724 access channels or their functional equivalent permitted by
725 subsection (3), access to the additional channels or their
726 functional equivalent allowed in subsection (3) shall be
727 provided upon 6 months' written notice.

728 (5) A public, educational, or governmental access channel

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729 authorized by this section is deemed activated and substantially
730 used if the channel is being used for public, educational, or
731 governmental access programming within the municipality or
732 county for at least 10 hours per day on average, of which at
733 least 5 hours must be nonrepeat programming and as measured on a
734 quarterly basis. Static information screens or bulletin-board
735 programming shall not count toward this 10-hour requirement. If
736 the applicable access channel does not meet this utilization
737 criterion, the video service provider shall notify the
738 applicable access provider in writing of this failure. If the
739 access provider fails to meet this utilization criterion in the
740 subsequent quarter, the cable or video service provider may
741 reprogram the channel at its discretion. The cable or video
742 service provider shall work in good faith with the access
743 provider to attempt to provide future carriage of the applicable
744 access channel within the limits of this section if the access
745 provider can make reasonable assurances that its future
746 programming will meet the utilization criteria set out in this
747 subsection.

748 (6) A cable or video service provider may locate any
749 public, educational, or governmental access channel on its
750 lowest digital tier of service offered to the provider's
751 subscribers. A cable or video service provider must notify its
752 customers and the applicable municipality or county at least 120
753 days prior to relocating the applicable educational or
754 governmental access channel.

755 (7) The operation of any public, educational, or
756 governmental access channel or its functional equivalent

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757 provided under this section shall be the responsibility of the
 758 municipality or county receiving the benefit of such channel or
 759 its functional equivalent, and a certificateholder bears only
 760 the responsibility for the transmission of such channel content.
 761 A certificateholder shall be responsible for the cost of
 762 providing the connectivity to one origination point for each
 763 public, educational, or governmental access channel up to 200
 764 feet from the certificateholder's activated video service
 765 distribution plant.

766 (8) The municipality or county shall ensure that all
 767 transmissions, content, or programming to be transmitted over a
 768 channel or facility by a certificateholder are provided or
 769 submitted to the cable or video service provider in a manner or
 770 form that is capable of being accepted and transmitted by a
 771 provider without any requirement for additional alteration or
 772 change in the content by the provider, over the particular
 773 network of the cable or video service provider, which is
 774 compatible with the technology or protocol used by the cable or
 775 video service provider to deliver services. To the extent that a
 776 public, educational, or governmental channel content provider
 777 has authority, the delivery of public, educational, or
 778 governmental content to a certificateholder constitutes
 779 authorization for the certificateholder to carry such content,
 780 including, at the provider's option, authorization to carry the
 781 content beyond the jurisdictional boundaries of the municipality
 782 or county.

783 (9) Where technically feasible, a certificateholder and an
 784 incumbent cable service provider shall use reasonable efforts to

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785 interconnect their networks for the purpose of providing public,
786 educational, and governmental programming. Interconnection may
787 be accomplished by direct cable, microwave link, satellite, or
788 other reasonable method of connection. Certificateholders and
789 incumbent cable service providers shall negotiate in good faith
790 and incumbent cable service providers may not withhold
791 interconnection of public, educational, and governmental
792 channels. The requesting party shall bear the cost of such
793 interconnection.

794 (10) A certificateholder is not required to interconnect
795 for, or otherwise to transmit, public, educational, and
796 governmental content that is branded with the logo, name, or
797 other identifying marks of another cable or video service
798 provider, and a municipality or county may require a cable or
799 video service provider to remove its logo, name, or other
800 identifying marks from public, educational, and governmental
801 content that is to be made available to another provider. This
802 subsection does not apply to the logo, name, or other
803 identifying marks of the public, educational, or governmental
804 programmer or producer.

805 (11) A municipality or county that has activated at least
806 one public, educational, or governmental access channel pursuant
807 to this section may require cable or video service providers to
808 remit public, educational, and governmental support
809 contributions in an amount equal to a lump-sum or recurring per-
810 subscriber funding obligation to support public, educational,
811 and governmental access channels, or other related costs as
812 provided for in the incumbent's franchise that exists prior to

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813 July 1, 2007, until the expiration date of the incumbent cable
814 or video service provider's franchise agreement. Any prospective
815 lump-sum payment shall be made on an equivalent per-subscriber
816 basis calculated as follows: the amount of prospective funding
817 obligations divided by the number of subscribers being served by
818 the incumbent cable or video service provider at the time of
819 payment, divided by the number of months remaining in the
820 incumbent cable or video service provider's franchise equals the
821 monthly per-subscriber amount to be paid by the
822 certificateholder. The obligations set forth in this subsection
823 apply until the earlier of the expiration date of the incumbent
824 cable or video service provider's franchise agreement or July 1,
825 2012. For purposes of this subsection, an incumbent cable or
826 video service provider is the service provider serving the
827 largest number of subscribers as of July 1, 2007.

828 (12) A court of competent jurisdiction shall have
829 exclusive jurisdiction to enforce any requirement under this
830 section.

831 610.112 Cable or video services for public facilities.--
832 Upon a request by a municipality or county, a certificateholder
833 shall provide, within 90 days after receipt of the request, one
834 active basic cable or video service outlet to K-12 public
835 schools, public libraries, or local government administrative
836 buildings, to the extent such buildings are located within 200
837 feet of the certificateholder's activated video distribution
838 plant. At the request of the municipality or county, the
839 certificateholder shall extend its distribution plant to serve
840 such buildings located more than 200 feet from the

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841 certificateholder's activated video distribution plant. In such
 842 circumstances, the governmental entity owning or occupying the
 843 building is responsible for the time and material costs incurred
 844 in extending the certificateholder's activated video
 845 distribution plant to within 200 feet adjacent to the building.
 846 The cable or video services provided under this section shall
 847 not be available in an area viewed by the general public and may
 848 not be used for any commercial purpose.

849 610.113 Nondiscrimination by municipality or county.--

850 (1) A municipality or county shall allow a
 851 certificateholder to install, construct, and maintain a network
 852 within a public right-of-way and shall provide a
 853 certificateholder with comparable, nondiscriminatory, and
 854 competitively neutral access to the public right-of-way in
 855 accordance with the provisions of s. 337.401. All use of a
 856 public right-of-way by a certificateholder is nonexclusive.

857 (2) A municipality or county may not discriminate against
 858 a certificateholder regarding:

859 (a) The authorization or placement of a network in a
 860 public right-of-way;

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

862 (c) Utility pole attachment terms and conditions.

863 610.114 Limitation on local authority.--

864 (1) A municipality or county may not impose additional
 865 requirements on a certificateholder, including, but not limited
 866 to, financial, operational, and administrative requirements,
 867 except as expressly permitted by this chapter. A municipality or
 868 county may not impose on activities of a certificateholder a

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869 requirement:
 870 (a) That particular business offices be located in the
 871 municipality or county;
 872 (b) Regarding the filing of reports and documents with the
 873 municipality or county that are not required by state or federal
 874 law and that are not related to the use of the public right-of-
 875 way. Reports and documents other than schematics indicating the
 876 location of facilities for a specific site that are provided in
 877 the normal course of the municipality's or county's permitting
 878 process, that are authorized by s. 337.401 for communications
 879 services providers, or that are otherwise required in the normal
 880 course of such permitting process shall not be considered
 881 related to the use of the public right-of-way for communications
 882 service providers. A municipality or county may not request
 883 information concerning the capacity or technical configuration
 884 of a certificateholder's facilities;
 885 (c) For the inspection of a certificateholder's business
 886 records; or
 887 (d) For the approval of transfers of ownership or control
 888 of a certificateholder's business, except that a municipality or
 889 county may require a certificateholder to provide notice of a
 890 transfer within a reasonable time.
 891 (2) Notwithstanding any other provision of law, a
 892 municipality or county may require the issuance of a permit in
 893 accordance with and subject to s. 337.401 to a certificateholder
 894 that is placing and maintaining facilities in or on a public
 895 right-of-way in the municipality or county. In accordance with
 896 s. 337.402, the permit may require the permitholder to be

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897 responsible, at the permitholder's expense, for any damage
 898 resulting from the issuance of such permit and for restoring the
 899 public right-of-way to its original condition before
 900 installation of such facilities. The terms of the permit shall
 901 be consistent with construction permits issued to other
 902 providers of communications services placing or maintaining
 903 communications facilities in a public right-of-way.

904 610.115 Discrimination prohibited.--

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

907 (2) A cable or video service provider may not deny access
 908 to service to any individual or group of potential residential
 909 subscribers because of the race or income of the residents in
 910 the local area in which the individual or group resides.
 911 Enforcement of this section shall be in accordance with s.
 912 501.2079.

913 610.116 Compliance.--If a certificateholder is found by a
 914 court of competent jurisdiction not to be in compliance with the
 915 requirements of this chapter, the certificateholder shall have a
 916 reasonable period of time, as specified by the court, to cure
 917 such noncompliance.

918 610.117 Limitation.--Nothing in this chapter shall be
 919 construed to give any local government or the department any
 920 authority over any communications service other than cable or
 921 video services whether offered on a common carrier or private
 922 contract basis.

923 610.118 Impairment; court-ordered operations.--

924 (1) If an incumbent cable or video service provider is

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925 required to operate under its existing franchise and is legally
 926 prevented by a lawfully issued order of a court of competent
 927 jurisdiction from exercising its right to terminate its existing
 928 franchise pursuant to the terms of s. 610.105, any
 929 certificateholder providing cable service or video service in
 930 whole or in part within the service area that is the subject of
 931 the incumbent cable or video service provider's franchise shall,
 932 for as long as the court order remains in effect, comply with
 933 the following franchise terms and conditions as applicable to
 934 the incumbent cable or video service provider in the service
 935 area:

936 (a) The certificateholder shall pay to the municipality or
 937 county:

938 1. Any prospective lump-sum or recurring per-subscriber
 939 funding obligations to support public, educational, and
 940 governmental access channels or other prospective franchise-
 941 required monetary grants related to public, educational, or
 942 governmental access facilities equipment and capital costs.
 943 Prospective lump-sum payments shall be made on an equivalent
 944 per-subscriber basis calculated as follows: the amount of the
 945 prospective funding obligations divided by the number of
 946 subscribers being served by the incumbent cable service provider
 947 at the time of payment, divided by the number of months
 948 remaining in the incumbent cable or video service provider's
 949 franchise equals the monthly per subscriber amount to be paid by
 950 the certificateholder until the expiration or termination of the
 951 incumbent cable or video service provider's franchise; and

952 2. If the incumbent cable or video service provider is

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953 required to make payments for the funding of an institutional
954 network, the certificateholder shall pay an amount equal to the
955 incumbent's funding obligations but not to exceed 1 percent of
956 the sales price, as defined in s. 202.11(13), for the taxable
957 monthly retail sales of cable or video programming services the
958 certificateholder received from subscribers in the affected
959 municipality or county. All definitions and exemptions under
960 chapter 202 apply in the determination of taxable monthly retail
961 sales of cable or video programming services.

962 (b) Payments are not due under this subsection until 45
963 days after the municipality or county notifies the respective
964 providers.

965 (c) Any certificateholder may designate that portion of
966 that subscriber's bill attributable to any fee imposed pursuant
967 to this section as a separate item on the bill and recover such
968 amount from the subscriber.

969 (2) The provisions of subsection (1) do not alter the
970 rights of a cable service or video service provider with respect
971 to service areas designated pursuant to s. 610.104(2)(e)5. Any
972 certificateholder providing cable service or video service in a
973 service area covered by the terms of an existing cable or video
974 service provider's franchise that is subject to a court or other
975 proceeding challenging the ability of an incumbent cable or
976 video service provider to exercise its legal right to terminate
977 its existing cable franchise pursuant to s. 610.105 has the
978 right to intervene in such proceeding.

979 610.119 Reports to the Legislature.--

980 (1) The Office of Program Policy Analysis and Government

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981 Accountability shall submit to the President of the Senate, the
 982 Speaker of the House of Representatives, and the majority and
 983 minority leaders of the Senate and House of Representatives, by
 984 December 1, 2009, and December 1, 2014, a report on the status
 985 of competition in the cable and video service industry,
 986 including, by each municipality and county, the number of cable
 987 and video service providers, the number of cable and video
 988 subscribers served, the number of areas served by fewer than two
 989 cable or video service providers, the trend in cable and video
 990 service prices, and the identification of any patterns of
 991 service as they impact demographic and income groups.

992 (2) By January 15, 2008, the Department of Agriculture and
 993 Consumer Services shall make recommendations to the President of
 994 the Senate, the Speaker of the House of Representatives, and the
 995 majority and minority leaders of the Senate and House of
 996 Representatives regarding the workload and staffing requirements
 997 associated with consumer complaints related to video and cable
 998 certificateholders. The Department of State shall provide to the
 999 Department of Agriculture and Consumer Services, for inclusion
 1000 in the report, the workload requirements for processing the
 1001 certificates of franchise authority. In addition, the Department
 1002 of State shall provide the number of applications filed for
 1003 cable and video certificates of franchise authority and the
 1004 number of amendments received to original applications for
 1005 franchise certificate authority.

1006 610.120 Severability.--If any provision of ss. 610.102-
 1007 610.119 or the application thereof to any person or circumstance
 1008 is held invalid, such invalidity shall not affect other

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1009 provisions or application of ss. 610.102-610.119 which can be
 1010 given effect without the invalid provision or application, and
 1011 to this end the provisions of ss. 610.102-610.119 are severable.

1012 Section 8. Paragraph (a) of subsection (3) of section
 1013 350.81, Florida Statutes, is amended to read:

1014 350.81 Communications services offered by governmental
 1015 entities.--

1016 (3)(a) A governmental entity that provides a cable or
 1017 video service shall comply with the Cable Communications Policy
 1018 Act of 1984, 47 U.S.C. ss. 521 et seq., the regulations issued
 1019 by the Federal Communications Commission under the Cable
 1020 Communications Policy Act of 1984, 47 U.S.C. ss. 521 et seq.,
 1021 and all applicable state and federal rules and regulations,
 1022 including, but not limited to, ~~s. 166.046~~ and those provisions
 1023 of chapters 202, 212, ~~and 337,~~ and 610 that ~~which~~ apply to a
 1024 provider of the services.

1025 Section 9. Section 364.0361, Florida Statutes, is amended
 1026 to read:

1027 364.0361 Local government authority; nondiscriminatory
 1028 exercise.--A local government shall treat each
 1029 telecommunications company in a nondiscriminatory manner when
 1030 exercising its authority to grant franchises to a
 1031 telecommunications company or to otherwise establish conditions
 1032 or compensation for the use of rights-of-way or other public
 1033 property by a telecommunications company. A local government may
 1034 not directly or indirectly regulate the terms and conditions,
 1035 including, but not limited to, the operating systems,
 1036 qualifications, services, service quality, service territory,

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1037 and prices, applicable to or in connection with the provision of
 1038 any voice-over-Internet protocol, regardless of the platform,
 1039 provider, or protocol, broadband or information service. This
 1040 section does not relieve a provider from any obligations under
 1041 ~~s. 166.046 or s. 337.401.~~

1042 Section 10. Subsections (6), (7), and (8) of section
 1043 364.051, Florida Statutes, are amended to read:

1044 364.051 Price regulation.--

1045 ~~(6) After a local exchange telecommunications company that~~
 1046 ~~has more than 1 million access lines in service has reduced its~~
 1047 ~~intrastate switched network access rates to parity, as defined~~
 1048 ~~in s. 364.164(5), the local exchange telecommunications~~
 1049 ~~company's retail service quality requirements that are not~~
 1050 ~~already equal to the service quality requirements imposed upon~~
 1051 ~~the competitive local exchange telecommunications companies~~
 1052 ~~shall at the company's request to the commission be no greater~~
 1053 ~~than those imposed upon competitive local exchange~~
 1054 ~~telecommunications companies unless the commission, within 120~~
 1055 ~~days after the company's request, determines otherwise. In such~~
 1056 ~~event, the commission may grant some reductions in service~~
 1057 ~~quality requirements in some or all of the company's local~~
 1058 ~~calling areas. The commission may not impose retail service~~
 1059 ~~quality requirements on competitive local exchange~~
 1060 ~~telecommunications companies greater than those existing on~~
 1061 ~~January 1, 2003.~~

1062 ~~(7) After a local exchange telecommunications company that~~
 1063 ~~has more than 1 million access lines in service has reduced its~~
 1064 ~~intrastate switched network access rates to parity, as defined~~

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1065 ~~in s. 364.164(5), the local exchange telecommunications company~~
 1066 ~~may petition the commission for regulatory treatment of its~~
 1067 ~~retail services at a level no greater than that imposed by the~~
 1068 ~~commission upon competitive local exchange telecommunications~~
 1069 ~~companies. The local exchange telecommunications company shall:~~
 1070 ~~(a) Show that granting the petition is in the public~~
 1071 ~~interest;~~
 1072 ~~(b) Demonstrate that the competition faced by the company~~
 1073 ~~is sufficient and sustainable to allow such competition to~~
 1074 ~~supplant regulation by the commission; and~~
 1075 ~~(c) Reduce its intrastate switched network access rates to~~
 1076 ~~its local reciprocal interconnection rate upon the grant of the~~
 1077 ~~petition.~~
 1078
 1079 ~~The commission shall act upon such a petition within 9 months~~
 1080 ~~after its filing with the commission. The commission may not~~
 1081 ~~increase the level of regulation for competitive local exchange~~
 1082 ~~telecommunications companies to a level greater than that which~~
 1083 ~~exists on the date the local exchange telecommunications company~~
 1084 ~~files its petition.~~
 1085 ~~(8) The provisions described in subsections (6) and (7)~~
 1086 ~~shall apply to any local exchange telecommunications company~~
 1087 ~~with 1 million or fewer lines in service that has reduced its~~
 1088 ~~intrastate switched network access rates to a level equal to the~~
 1089 ~~company's interstate switched network access rates in effect on~~
 1090 ~~January 1, 2003.~~
 1091 Section 11. Paragraph (h) of subsection (3) of section
 1092 364.10, Florida Statutes, is amended to read:

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1093 364.10 Undue advantage to person or locality prohibited;
 1094 Lifeline service.--

1095 (3)

1096 (h)1. By December 31, 2007 ~~2003~~, each state agency that
 1097 provides benefits to persons eligible for Lifeline service shall
 1098 undertake, in cooperation with the Department of Children and
 1099 Family Services, the Department of Education, the commission,
 1100 the Office of Public Counsel, and telecommunications companies
 1101 providing Lifeline services, the development of procedures to
 1102 promote Lifeline participation.

1103 2. If any state agency determines that a person is
 1104 eligible for Lifeline services, the agency shall immediately
 1105 forward the information to the commission to ensure that the
 1106 person is automatically enrolled in the program with the
 1107 appropriate eligible telecommunications carrier. The state
 1108 agency shall include an option for an eligible customer to
 1109 choose not to subscribe to the Lifeline service. The Public
 1110 Service Commission and the Department of Children and Family
 1111 Services shall, no later than December 31, 2007, adopt rules
 1112 creating procedures to automatically enroll eligible customers
 1113 in Lifeline service.

1114 3. The commission, the Department of Children and Family
 1115 Services, and the Office of Public Counsel shall enter into a
 1116 memorandum of understanding establishing the respective duties
 1117 of the commission, the department, and the public counsel with
 1118 respect to the automatic enrollment procedures no later than
 1119 December 31, 2007.

1120 Section 12. Section 364.163, Florida Statutes, is amended

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1121 to read:

1122 364.163 Network access services.--For purposes of this
 1123 section, the term "network access service" is defined as any
 1124 service provided by a local exchange telecommunications company
 1125 to a telecommunications company certificated under this chapter
 1126 or licensed by the Federal Communications Commission to access
 1127 the local exchange telecommunications network, excluding the
 1128 local interconnection arrangements in s. 364.16 and the resale
 1129 arrangements in s. 364.161. Each local exchange
 1130 telecommunications company subject to s. 364.051 shall maintain
 1131 tariffs with the commission containing the terms, conditions,
 1132 and rates for each of its network access services. The switched
 1133 network access service rates in effect immediately prior to July
 1134 1, 2007, shall be, and shall remain, capped at that level until
 1135 July 1, 2010. An interexchange telecommunications company may
 1136 not institute any intrastate connection fee or any similarly
 1137 named fee.

1138 ~~(1) After a local exchange telecommunications company's~~
 1139 ~~intrastate switched network access rates are reduced to or below~~
 1140 ~~parity, as defined in s. 364.164(5), the company's intrastate~~
 1141 ~~switched network access rates shall be, and shall remain, capped~~
 1142 ~~for 3 years.~~

1143 ~~(2) Any intrastate interexchange telecommunications~~
 1144 ~~company whose intrastate switched network access rate is reduced~~
 1145 ~~as a result of the rate adjustments made by a local exchange~~
 1146 ~~telecommunications company in accordance with s. 364.164 shall~~
 1147 ~~decrease its intrastate long distance revenues by the amount~~
 1148 ~~necessary to return the benefits of such reduction to both its~~

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1149 ~~residential and business customers. The intrastate interexchange~~
 1150 ~~telecommunications company may determine the specific intrastate~~
 1151 ~~rates to be decreased, provided that residential and business~~
 1152 ~~customers benefit from the rate decreases. Any in state~~
 1153 ~~connection fee or similarly named fee shall be eliminated by~~
 1154 ~~July 1, 2006, provided that the timetable determined pursuant to~~
 1155 ~~s. 364.164(1) reduces intrastate switched network access rates~~
 1156 ~~in an amount that results in the elimination of such fee in a~~
 1157 ~~revenue neutral manner. The tariff changes, if any, made by the~~
 1158 ~~intrastate interexchange telecommunications company to carry out~~
 1159 ~~the requirements of this subsection shall be presumed valid and~~
 1160 ~~shall become effective on 1 day's notice.~~

1161 ~~(3) The commission shall have continuing regulatory~~
 1162 ~~oversight of intrastate switched network access and customer~~
 1163 ~~long distance rates for purposes of determining the correctness~~
 1164 ~~of any rate decrease by a telecommunications company resulting~~
 1165 ~~from the application of s. 364.164 and making any necessary~~
 1166 ~~adjustments to those rates.~~

1167 Section 13. Subsection (4) is added to section 364.385,
 1168 Florida Statutes, to read:

1169 364.385 Saving clauses.--

1170 (4) The rates and charges for basic local
 1171 telecommunications service and network access service approved
 1172 by the commission in accordance with the decisions set forth in
 1173 Orders Nos. PSC 03-1469-FOF-TL and PSC 04-0456-FOF-TL, and which
 1174 are in effect immediately prior to July 1, 2007, shall remain in
 1175 effect and such rates and charges may not be changed after the
 1176 effective date of this act, except in accordance with the

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1177 provisions of ss.364.051 and 364.163.

1178 Section 14. Sections 166.046 and 364.164, Florida
 1179 Statutes, are repealed.

1180 Section 15. Section 501.2079, Florida Statutes, is created
 1181 to read:

1182 501.2079 Violations involving discrimination in the
 1183 provision of video services.--

1184 (1) As used in this section, the term:

1185 (a) "Cable service" has the same meaning as in s.
 1186 610.103(1).

1187 (b) "Video service" has the same meaning as in s.
 1188 610.103(11).

1189 (c) "Resident" means a resident residing within a service
 1190 area as set out in ss. 610.104(2)(e)5. and 610.104(6).

1191 (d) "Provider" means a cable or video service provider
 1192 that has been issued and holds a statutory certificate of
 1193 franchise authority from the Department of State.

1194 (e) "Discrimination" means the denial of access to cable
 1195 or video service to any individual or group of residents because
 1196 of the race or income of the residents in the local area in
 1197 which such individual or group resides. Such discrimination
 1198 shall be prohibited as to residents throughout the service area
 1199 of the municipality or county within which service is provided.

1200 (2) Discrimination among residents by a provider of cable
 1201 or video services is declared unlawful and constitutes a
 1202 violation of this section.

1203 (3) For purposes of determining whether a provider has
 1204 violated subsection (2), a cable or video service provider may

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1205 satisfy the nondiscrimination requirements of this section
 1206 through the use of alternative technology that offers service,
 1207 functionality, and content that is demonstrably similar to that
 1208 provided through the provider's system and may include a
 1209 technology that does not require the use of any public right-of-
 1210 way. The technology used to comply with the requirements of this
 1211 section is subject to all the requirements of chapter 610. If a
 1212 provider makes cable or video service available within a
 1213 reasonable period of time from the initiation of service to
 1214 residents in its service area, the provider shall be presumed to
 1215 be in compliance with subsection (2). A provider is not required
 1216 to offer or provide service to end users residing in an area
 1217 having a density of fewer than 30 homes per linear cable mile
 1218 from the provider's nearest activated video distribution plant.
 1219 This section does not impose a buildout requirement.

1220 (4) For purposes of determining whether a provider has
 1221 violated subsection (2), cost, density, distance, and
 1222 technological or commercial limitations shall be taken into
 1223 account. The inability to provide access to cable or video
 1224 service because a provider is prohibited from placing its own
 1225 facilities in a building or property or due to natural disasters
 1226 is not a violation of subsection (2).

1227 (5) Enforcement of this section shall be as provided in
 1228 ss. 501.206, 501.207 and 501.211.

1229 (6) Upon a finding by a court of competent jurisdiction
 1230 that a provider has engaged in unlawful discrimination, the
 1231 provider shall have a reasonable period of time as specified by
 1232 the court to cure such noncompliance. If the provider fails to

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1233 cure within a specified time, any provider who is found to have
1234 violated subsection (2) is liable for a civil penalty of not
1235 more than \$15,000 for each such violation. For purposes of this
1236 section, discrimination against each individual member of a
1237 group constitutes a separate violation and is subject to a
1238 separate penalty as set forth in this section.

1239 Section 16. This act shall take effect upon becoming a
1240 law.