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1 A bill to be entitled
2 An act relating to cable and video services; amending s.
3 610.109, F.S.; deleting language requiring a poll of
4 subscribers to allow the addition of access channels under
5 certain conditions; increasing the number of access
6 channels to be provided by a certificateholder; deleting
7 language relating to the usage of channels; deleting
8 language relating to hours of access by such channels;
9 providing for the placement and manner in which such
10 channels must be carried on a certificateholder's basic
11 cable or video service; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 610.109, Florida Statutes, is amended
16 to read:

17 610.109 Public, educational, and governmental access
18 channels.--

19 (1) A certificateholder, not later than 180 days following
20 a request by a municipality or county within whose jurisdiction
21 the certificateholder is providing cable or video service, shall
22 designate a sufficient amount of capacity on its network to
23 allow the provision of public, educational, and governmental
24 access channels for noncommercial programming as set forth in
25 this section.

26 (2) A certificateholder shall designate a sufficient
27 amount of capacity on its network to allow the provision of the
28 same number of public, educational, and governmental access

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29 channels or their functional equivalent that a municipality or
30 county has activated under the incumbent cable or video service
31 provider's franchise agreement as of July 1, 2007. For the
32 purposes of this section, a public, educational, or governmental
33 channel is deemed activated if the channel is being used for
34 public, educational, or governmental programming within the
35 municipality or county. The municipality or county may request
36 additional channels or their functional equivalent permitted
37 under the incumbent cable or video service provider's franchise
38 agreement as of July 1, 2007. ~~Upon the expiration of the~~
39 ~~incumbent cable or video service provider's franchise agreement~~
40 ~~or within 6 months after a request of a municipality or county~~
41 ~~for an additional channel or its functional equivalent, a public~~
42 ~~access channel or capacity equivalent may be furnished after a~~
43 ~~polling of all subscribers of the cable or video service in~~
44 ~~their service area. The usage of one public access channel or~~
45 ~~capacity equivalent shall be determined by a majority of all the~~
46 ~~provider's subscribers in the jurisdiction. The video or cable~~
47 ~~service subscribers must be provided with clear, plain language~~
48 ~~informing them that public access is unfiltered programming and~~
49 ~~may contain adult content.~~

50 (3) If a municipality or county did not have public,
51 educational, or governmental access channels activated under the
52 incumbent cable or video service provider's franchise agreement
53 as of July 1, 2007, after the expiration date of the incumbent
54 cable or video service provider's franchise agreement and within
55 6 months after a request by the municipality or county within
56 whose jurisdiction a certificateholder is providing cable or

57 video service, the certificateholder shall furnish up to three
58 ~~two~~ public, educational, or governmental channels or their
59 functional equivalent. ~~The usage of the channels or their~~
60 ~~functional equivalent shall be determined by a majority of all~~
61 ~~the video service provider's subscribers in the jurisdiction in~~
62 ~~order of preference of all video service subscribers. Cable or~~
63 ~~video service subscribers must be provided with clear, plain~~
64 ~~language informing them that public access is unfiltered~~
65 ~~programming and contains adult content.~~

66 (4) If a municipality or county has not used the number of
67 access channels or their functional equivalent permitted by
68 subsection (3), access to the additional channels or their
69 functional equivalent allowed in subsection (3) shall be
70 provided upon 6 months' written notice.

71 ~~(5) A public, educational, or governmental access channel~~
72 ~~authorized by this section is deemed activated and substantially~~
73 ~~used if the channel is being used for public, educational, or~~
74 ~~governmental access programming within the municipality or~~
75 ~~county for at least 10 hours per day on average, of which at~~
76 ~~least 5 hours must be nonrepeat programming and as measured on a~~
77 ~~quarterly basis. Static information screens or bulletin-board~~
78 ~~programming shall not count toward this 10-hour requirement. If~~
79 ~~the applicable access channel does not meet this utilization~~
80 ~~criterion, the video service provider shall notify the~~
81 ~~applicable access provider in writing of this failure. If the~~
82 ~~access provider fails to meet this utilization criterion in the~~
83 ~~subsequent quarter, the cable or video service provider may~~
84 ~~reprogram the channel at its discretion. The cable or video~~

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85 ~~service provider shall work in good faith with the access~~
86 ~~provider to attempt to provide future carriage of the applicable~~
87 ~~access channel within the limits of this section if the access~~
88 ~~provider can make reasonable assurances that its future~~
89 ~~programming will meet the utilization criteria set out in this~~
90 ~~subsection.~~

91 (5) (6) Public, educational, and governmental access
92 channels shall all be carried on the certificateholder's basic
93 cable or video service offerings or tiers. The public,
94 educational, and governmental access channels may not be
95 separated numerically from other channels carried on the
96 certificateholder's basic cable or video service offerings or
97 tiers, and the channel numbers for the public, educational, and
98 governmental access channels shall be the same channel numbers
99 used by the incumbent cable operator unless prohibited by
100 federal law. After the initial designation of public,
101 educational, and governmental access channel numbers, the
102 channel numbers may not be changed without agreement of the
103 local unit of government or the entity to which the local unit
104 of government has assigned responsibility for managing the
105 public, educational, and governmental access channels unless the
106 change is required by federal law. Each channel shall be capable
107 of carrying an Advanced Television Systems Committee (ATSC)
108 television signal. ~~A cable or video service provider may locate~~
109 ~~any public, educational, or governmental access channel on its~~
110 ~~lowest digital tier of service offered to the provider's~~
111 ~~subscribers.~~ A cable or video service provider must notify its
112 customers and the applicable municipality or county at least 120

113 | days prior to relocating the applicable public, educational, or
 114 | governmental access channel.

115 | ~~(6)-(7)~~ The operation of any public, educational, or
 116 | governmental access channel or its functional equivalent
 117 | provided under this section shall be the responsibility of the
 118 | municipality or county receiving the benefit of such channel or
 119 | its functional equivalent, and a certificateholder bears only
 120 | the responsibility for the transmission of such channel content.
 121 | A certificateholder shall be responsible for the cost of
 122 | providing the connectivity to one origination point for each
 123 | public, educational, or governmental access channel up to 200
 124 | feet from the certificateholder's activated video service
 125 | distribution plant.

126 | ~~(7)-(8)~~ The municipality or county shall ensure that all
 127 | transmissions, content, or programming to be transmitted over a
 128 | channel or facility by a certificateholder are provided or
 129 | submitted to the cable or video service provider in a manner or
 130 | form that is capable of being accepted and transmitted by a
 131 | provider without any requirement for additional alteration or
 132 | change in the content by the provider, over the particular
 133 | network of the cable or video service provider, which is
 134 | compatible with the technology or protocol used by the cable or
 135 | video service provider to deliver services. To the extent that a
 136 | public, educational, or governmental channel content provider
 137 | has authority, the delivery of public, educational, or
 138 | governmental content to a certificateholder constitutes
 139 | authorization for the certificateholder to carry such content,
 140 | including, at the provider's option, authorization to carry the

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141 content beyond the jurisdictional boundaries of the municipality
142 or county.

143 (8)~~(9)~~ Where technically feasible, a certificateholder and
144 an incumbent cable service provider shall use reasonable efforts
145 to interconnect their networks for the purpose of providing
146 public, educational, and governmental programming.

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

149 Certificateholders and incumbent cable service providers shall
150 negotiate in good faith, and incumbent cable service providers
151 may not withhold interconnection of public, educational, and
152 governmental channels. The requesting party shall bear the cost
153 of such interconnection.

154 (9)~~(10)~~ A certificateholder is not required to
155 interconnect for, or otherwise to transmit, public, educational,
156 and governmental content that is branded with the logo, name, or
157 other identifying marks of another cable or video service
158 provider, and a municipality or county may require a cable or
159 video service provider to remove its logo, name, or other
160 identifying marks from public, educational, and governmental
161 content that is to be made available to another provider. This
162 subsection does not apply to the logo, name, or other
163 identifying marks of the public, educational, or governmental
164 programmer or producer.

165 (10)~~(11)~~ A municipality or county that has activated at
166 least one public, educational, or governmental access channel
167 pursuant to this section may require cable or video service
168 providers to remit public, educational, and governmental support

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169 contributions in an amount equal to a lump-sum or recurring per-
170 subscriber funding obligation to support public, educational,
171 and governmental access channels, or other related costs as
172 provided for in the incumbent's franchise that exists prior to
173 July 1, 2007, until the expiration date of the incumbent cable
174 or video service provider's franchise agreement. Any prospective
175 lump-sum payment shall be made on an equivalent per-subscriber
176 basis calculated as follows: the amount of prospective funding
177 obligations divided by the number of subscribers being served by
178 the incumbent cable or video service provider at the time of
179 payment, divided by the number of months remaining in the
180 incumbent cable or video service provider's franchise equals the
181 monthly per-subscriber amount to be paid by the
182 certificateholder. The obligations set forth in this subsection
183 apply until the earlier of the expiration date of the incumbent
184 cable or video service provider's franchise agreement or July 1,
185 2012. For purposes of this subsection, an incumbent cable or
186 video service provider is the service provider serving the
187 largest number of subscribers as of July 1, 2007.

188 (11)~~(12)~~ A court of competent jurisdiction shall have
189 exclusive jurisdiction to enforce any requirement under this
190 section.

191 Section 2. This act shall take effect July 1, 2009.