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1 (b) Uniform regulation of all video service providers by this state is necessary  
2 to ensure that state residents receive adequate and efficient video service and to  
3 protect and promote the public health, safety, and welfare.

4 (c) Fair competition in the provision of video service will result in new and more  
5 video programming choices for consumers in this state, and a number of providers  
6 have stated their desire to provide that service.

7 (d) Timely entry into the market is critical for new entrants seeking to compete  
8 with existing providers.

9 (e) This state's economy would be enhanced by additional investment in  
10 communications and video programming infrastructure by existing and new  
11 providers of video service.

12 (f) Minimal regulation of all providers of video service within a uniform  
13 framework will promote the investment described in par. (e).

14 (g) Ensuring that existing providers of video service are subject to the same  
15 regulatory requirements and procedures as new entrants will ensure fair  
16 competition among all providers.

17 (h) This section is an enactment of statewide concern for the purpose of  
18 providing uniform regulation of video service that promotes investment in  
19 communications and video infrastructures and the continued development of this  
20 state's video service marketplace within a framework that is fair and equitable to all  
21 providers.

22 (2) DEFINITIONS. In this section:

23 (a) "Affiliate", when used in relation to any person, means another person who  
24 owns or controls, is owned or controlled by, or is under common ownership or control  
25 with such person.

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1 (b) "Basic local exchange service area" means the area on file with the public  
2 service commission in which a telecommunications video service provider provides  
3 basic local exchange service, as defined in s. 196.01 (1g).

4 (c) "Cable franchise" means a franchise granted under s. 66.0419 (3) (b), 2005  
5 stats.

6 (d) "Cable operator" has the meaning given in 47 USC 522 (5).

7 (e) "Cable service" has the meaning given in 47 USC 522 (6).

8 (f) "Cable system" has the meaning given in 47 USC 522 (7).

9 (g) "Department" means the department of financial institutions.

10 (h) "FCC" means the federal communications commission.

11 (i) "Franchise fee" has the meaning given in 47 USC 542 (g), and includes any  
12 compensation required under s. 66.0425.

13 (j) 1. "Gross receipts" means all revenues received by and paid to a video service  
14 provider by subscribers residing within a municipality for video service, including  
15 all of the following:

16 a. Recurring charges for video service.

17 b. Event-based charges for video service, including pay-per-view and  
18 video-on-demand charges.

19 c. Rental of set top boxes and other video service equipment.

20 d. Service charges related to the provision of video service, including activation,  
21 installation, repair, and maintenance charges.

22 e. Administrative charges related to the provision of video service, including  
23 service order and service termination charges.

24 2. Notwithstanding subd. 1., "gross receipts" does not include any of the  
25 following:

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1           a. Discounts, refunds, and other price adjustments that reduce the amount of  
2           compensation received by a video service provider.

3           b. Uncollectible fees, except that any uncollectible fees that are written off as  
4           bad debt but subsequently collected shall be included as gross receipts in the period  
5           collected, less the expenses of collection.

6           c. Late payment charges.

7           d. Maintenance charges.

8           e. Amounts billed to video service subscribers to recover taxes, fees, surcharges  
9           or assessments of general applicability or otherwise collected by a video service  
10          provider from video service subscribers for pass through to any federal, state, or local  
11          government agency, including video service provider fees and regulatory fees paid to  
12          the FCC under 47 USC 159.

13          f. Revenue from the sale of capital assets or surplus equipment not used by the  
14          purchaser to receive video service from the seller of those assets or surplus  
15          equipment.

16          g. Charges, other than those described in subd. 1., that are aggregated or  
17          bundled with amounts described in subd. 1. and billed to video service subscribers,  
18          including but not limited to any revenues received by a video service provider or its  
19          affiliates for telecommunications services, information services, or the provision of  
20          directory or Internet advertising, including yellow pages, white pages, banner  
21          advertisement, and electronic publishing, if a video service provider can reasonably  
22          identify such charges on books and records kept in the regular course of business or  
23          by other reasonable means.

24          h. Reimbursement by programmers of marketing costs actually incurred by a  
25          video service provider.

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1           (k) "Household" means a house, apartment, mobile home, group of rooms, or  
2           single room that is intended for occupancy as separate living quarters. For purposes  
3           of this paragraph, "separate living quarters" are those in which the occupants live  
4           and eat separately from any other persons in the building and which have direct  
5           access from the outside of the building or through a common hall.

6           (L) "Incumbent cable operator" means a person who, immediately before the  
7           effective date of this paragraph, was providing cable service under a cable franchise,  
8           expired cable franchise, or cable franchise extension, or under an ordinance or  
9           resolution adopted or enacted by a municipality.

10          (m) "Institutional network" means a network that connects governmental,  
11          educational, and community institutions.

12          (n) "Interim cable operator" means an incumbent cable operator that elects to  
13          continue to provide cable service under a cable franchise as specified in sub. (3) (b)  
14          2. a.

15          (o) "Issued" means, with respect to a video service franchise, issued or  
16          considered to be issued by the department under sub. (3) (f) 2.

17          (p) "Large telecommunications video service provider" means a  
18          telecommunications video service provider that has more than 500,000 basic local  
19          exchange access lines in this state.

20          (q) "Low-income household" means any individual or group of individuals  
21          living together as one economic unit in a household whose aggregate annual income  
22          is not more than \$35,000, as identified by the United States Census Bureau as of  
23          January 1, 2007.

24          (r) "Municipality" means a city, village, or town.

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1 (s) "PEG channel" means a channel designated for noncommercial public,  
2 educational, or governmental use.

3 (r) "Service tier" means a category of video service for which a separate rate is  
4 charged.

5 (u) "State agency" means any board, commission, committee, department, or  
6 office in the state government.

7 (v) "Telecommunications video service provider" means a video service provider  
8 that uses facilities for providing telecommunications service, as defined in s. 196.01  
9 (9m), also to provide video service.

10 (w) "Video franchise area" means the area or areas described in an application  
11 for a video service franchise under sub. (3) (d) 2., as modified, if applicable, in a  
12 notification made under sub. (3) (j).

13 (x) "Video programming" means programming provided by, or generally  
14 considered comparable to programming provided by, a television broadcast station.

15 (y) "Video service" means any video programming service, cable service, or  
16 service provided via an open video system that complies with 47 USC 573, that is  
17 provided through facilities located at least in part in public rights-of-way, without  
18 regard to delivery technology, including Internet protocol technology or any other  
19 technology. "Video service" does not include any of the following:

20 1. Video programming provided by a commercial mobile radio service provider,  
21 as defined in s. 196.01 (2g).

22 2. Video programming provided solely as part of and via a service that enables  
23 users to access content, information, electronic mail, or any other service offered over  
24 the public Internet.

25 (z) "Video service franchise" means a franchise issued under sub. (3) (f) 2.

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1           (zb) "Video service network" means wireline facilities, or any component  
2 thereof, located at least in part in the public right-of-way that deliver video service,  
3 without regard to delivery technology, including Internet protocol technology or any  
4 other technology. "Video service network" includes a cable system.

5           (zg) "Video service provider" means a person, including an incumbent cable  
6 operator, who is issued a video service franchise or an affiliate, successor, or assign  
7 of such a person.

8           (zm) "Video service provider fee" means the fee paid by a video service provider  
9 under sub. (7).

10           **(3) AUTHORITY TO PROVIDE VIDEO SERVICE.** (a) *In general.* Except for an interim  
11 cable operator, and except as provided in par. (c), no person may provide video service  
12 in this state unless the department has issued a video service franchise to the person  
13 and the person has provided the notice required under par. (h).

14           (b) *Incumbent cable operators.* 1. A municipality may not renew or extend the  
15 cable franchise of an incumbent cable operator that expires after the effective date  
16 of this subdivision .... [revisor inserts date].

17           2. An incumbent cable operator may do one of the following:

18           a. Continue to provide cable service as an interim cable operator until the cable  
19 franchise expires.

20           b. Apply for a video service franchise. If an incumbent cable operator applies  
21 for a video service franchise, the cable franchise shall terminate and have no effect  
22 upon issuance of the video service franchise. Upon termination of the cable  
23 franchise, the municipality that granted the franchise shall, at the request of the  
24 incumbent cable operator, surrender, return, or take such other action as may be

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1 necessary to nullify any bond, letter of credit, or similar instrument intended to  
2 secure the performance of the incumbent cable operator under the cable franchise.

3 3. An incumbent cable operator whose cable franchise expires after the  
4 effective date of this subdivision .... [revisor inserts date], may not, after expiration  
5 of the cable franchise, provide video service in this state unless the incumbent cable  
6 operator applies for a video service franchise under subd. 2. b. and, upon issuance  
7 of the video service franchise, provides the notice required under par. (h). An  
8 incumbent cable operator whose cable franchise expired before the effective date of  
9 this subdivision .... [revisor inserts date], and who was providing cable service  
10 immediately before the effective date of this act, may continue to provide cable  
11 service if, no later than the first day of the 2nd month beginning after the effective  
12 date of this subdivision .... [revisor inserts date], the incumbent cable operator  
13 applies for a video service franchise under subd. 2. b.

14 (c) *Other providers.* If a person, other than an incumbent cable operator, who  
15 was providing video service immediately before the effective date of this paragraph  
16 .... [revisor inserts date], applies, no later than the first day of the 2nd month  
17 beginning after the effective date of this paragraph .... [revisor inserts date], for a  
18 video franchise, the person may provide video service until the department issues a  
19 video franchise to the person.

20 (d) *Application.* An applicant for a video service franchise shall submit an  
21 application to the department that consists of all of the following:

22 1. The location and telephone number of the applicant's principal place of  
23 business, the names of the principal executive officers of the applicant, and the  
24 names of any persons authorized to represent the applicant before the department.

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1           2. A description of the area or areas of the state in which the applicant intends  
2 to provide video service.

3           3. The date on which the applicant intends to begin providing video service in  
4 the video franchise area.

5           4. An affidavit signed by an officer or general partner of the applicant that  
6 affirms all of the following:

7           a. That the applicant has filed or will timely file with the FCC all forms required  
8 by the FCC in advance of offering video service.

9           b. That the applicant agrees to comply with this section and all applicable  
10 federal statutes and regulations.

11           c. That the applicant is legally, financially, and technically qualified to provide  
12 video service.

13           (e) *Service upon municipalities.* 1. At the time that an applicant submits an  
14 application under par. (d), or a video service provider submits a notification  
15 regarding a modification to an application under par. (j), to the department, the  
16 applicant or video service provider shall serve a copy of the application or notification  
17 on each municipality in the video franchise area.

18           2. a. This subdivision applies only to a municipality that, under subd. 1., is  
19 served a copy of an application or that, under subd. 1., is served a copy of a  
20 notification relating to an expansion of the area or areas of the state in which a video  
21 service provider intends to provide video service, if the municipality has not  
22 previously been served a copy of an application under subd. 1. by that video service  
23 provider.

24           b. If a municipality specified in subd. 2. a. has granted any cable franchise that  
25 is in effect immediately before the effective date of this subdivision .... [revisor inserts



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1 date], the municipality shall, no later than 10 business days after receipt of the copy,  
2 notify the applicant in writing of the number of PEG channels for which incumbent  
3 cable operators are required to provide channel capacity in the municipality and the  
4 percentage of revenues that incumbent cable operators are required to pay the  
5 municipality as franchise fees.

6 (f) *Department duties.* 1. No later than 10 business days after the filing of an  
7 application, the department shall notify the applicant in writing as to whether the  
8 application is complete and, if the department has determined that the application  
9 is not complete, the department shall state the reasons for the determination.

10 2. No later than 10 business days after the filing of an application that the  
11 department has determined is complete, the department shall issue a video service  
12 franchise to the applicant and, if the department fails to do so, the department shall  
13 be considered to have issued a video service franchise to the applicant, unless the  
14 applicant withdraws the application or agrees with the department to an extension  
15 of time.

16 (g) *Effect of video service franchise.* A video service franchise issued by the  
17 department authorizes a video service provider to occupy the public rights-of-way  
18 and to construct, operate, maintain, and repair a video service network to provide  
19 video service in the video franchise area.

20 (h) *Notice before providing service.* No later than 10 days before providing video  
21 service in a municipality in a video franchise area, a video service provider shall  
22 provide notice to the department and the municipality.

23 (i) *Expiration of video service franchise.* A video service franchise issued to a  
24 video service provider does not expire, unless the video service provider gives 30 days'  
25 advance notice to the department that the video service provider intends to

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1 terminate the video service franchise. If a video service provider gives such notice,  
2 the video service franchise shall expire on the termination date stated in the notice.

3 (j) *Modifications.* If there is any change in the information included in an  
4 application filed by a video service provider under this subsection, the video service  
5 provider shall notify the department and update the information within 10 business  
6 after the change, except that if the video service provider determines to expand the  
7 area or areas of the state in which the video service provider intends to provide video  
8 service, the video service provider shall notify the department as soon as practicable  
9 after making such a determination but no later than 10 business days before  
10 providing video service in the expansion area or areas.

11 (4) **FRANCHISING AUTHORITY.** For purposes of 47 USC 521 to 573, the state is the  
12 exclusive franchising authority for video service providers in this state.  
13 Notwithstanding s. 66.0425, no municipality may require a video service provider to  
14 obtain a franchise to provide video service or impose on a video service provider any  
15 fee or requirement relating to the construction of a video service network or the  
16 provision of video service, including any requirement to deploy facilities or  
17 equipment or any requirement regarding rates for video service, except as  
18 specifically authorized under this section.

19 (5) **PEG CHANNELS.** (a) *Maximum number of PEG channels.* 1. If an incumbent  
20 cable operator is providing channel capacity for PEG channels to a municipality  
21 under a cable franchise in effect immediately before the effective date of this  
22 subdivision .... [revisor inserts date], the municipality shall require each interim  
23 cable operator or video service provider that provides video service in the  
24 municipality to provide channel capacity for the same number of PEG channels for

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1 which channel capacity is provided immediately before the effective date of this  
2 subdivision .... [revisor inserts date].

3 2. a. Except as provided in subd. 2. b. and c., if no incumbent cable operator is  
4 providing channel capacity for PEG channels to a municipality under a cable  
5 franchise that is in effect immediately before the effective date of this subd. 2. a. ....  
6 [revisor inserts date], then, if the municipality has a population of 50,000 or more,  
7 the municipality may require each interim cable operator and video service provider  
8 that provides video service in the municipality to provide channel capacity for up to  
9 3 PEG channels, and, if the municipality has a population of less than 50,000, the  
10 municipality may require each interim cable operator and video service provider that  
11 provides video service in the municipality to provide channel capacity for no more  
12 than 2 PEG channels.

13 b. If an interim cable operator or video service provider distributes video  
14 programming to more than one municipality through a single headend or video hub  
15 office and the aggregate population of the municipalities is 50,000 or more, the  
16 municipalities may not require the interim cable operator or video service provider  
17 to provide, in the aggregate, channel capacity for more than 3 PEG channels under  
18 subd. 2. a.

19 c. If an interim cable operator or video service provider distributes video  
20 programming to more than one municipality through a single headend or video hub  
21 office and the aggregate population of the municipalities is less than 50,000, the  
22 municipalities may not require the interim cable operator or video service provider  
23 to provide, in the aggregate, channel capacity for more than 2 PEG channels under  
24 subd. 2. a.

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1           3. An interim cable operator or video service provider shall provide any channel  
2 capacity for PEG channels required under this paragraph on any service tier that is  
3 viewed by more than 50 percent of the interim cable operator's or video service  
4 provider's customers.

5           4. If a municipality is not required to provide notice to a video service provider  
6 under sub. (3) (e) 2., the video service provider's duty to provide any additional  
7 channel capacity for PEG channels that is required by the municipality under this  
8 paragraph first applies on the date that the video service provider begins to provide  
9 service in the municipality, and, if the municipality is required to provide notice  
10 under sub. (3) (e) 2., the video service provider's duty to provide any such additional  
11 channel capacity first applies on the date that the video service provider begins to  
12 provide video service in the municipality or on the 90th day after the video service  
13 provider receives the municipality's notice, whichever is later.

14           (b) *Exceptions.* 1. a. Notwithstanding par. (a), an interim cable operator or  
15 video service provider may reprogram for any other purpose any channel capacity  
16 provided for a PEG channel required by a municipality under par. (a) if the PEG  
17 channel is not substantially utilized by the municipality. If the municipality certifies  
18 to the interim cable operator or video service provider that reprogrammed channel  
19 capacity for a PEG channel will be substantially utilized by the municipality, the  
20 interim cable operator or video service provider shall, no later than 120 days after  
21 receipt of the certification, restore the channel capacity for the PEG channel.  
22 Notwithstanding par. (a) 3., an interim cable operator or video service provider may  
23 provide restored channel capacity for a PEG channel on any service tier.

24           b. For purposes of this subdivision, a PEG channel is substantially utilized by  
25 a municipality if the municipality provides 12 hours or more of programming on the

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1 PEG channel each calendar day and at least 80 percent of that programming is  
2 locally produced and not repeated.

3 2. Notwithstanding par. (a), if a municipality fails to provide the notice  
4 specified in sub. (3) (e) 2. before the deadline specified in sub. (3) (e) 2., no interim  
5 cable operator or video service provider is required to provide channel capacity for  
6 any PEG channel until the 90th day after the municipality provides such notice.

7 (c) *Powers and duties of municipalities.* 1. Except as otherwise required under  
8 par. (a), a municipality may not require an interim cable operator or video service  
9 provider to provide any funds, services, programming, facilities, or equipment  
10 related to public, educational, or governmental use of channel capacity.

11 2. The operation of any PEG channel for which a municipality requires an  
12 interim cable operator or video service provider to provide channel capacity under  
13 par. (a), and the production of any programming appearing on such a PEG channel,  
14 shall be the sole responsibility of the municipality and, except as provided in par. (d)  
15 1., the interim cable operator or video service provider shall bear only the  
16 responsibility to transmit programming appearing on the PEG channel.

17 3. A municipality that requires an interim cable operator or video service  
18 provider to provide channel capacity for a PEG channel under par. (a) shall do all of  
19 the following:

20 a. Ensure that all content and programming that the municipality provides or  
21 arranges to provide for transmission on the PEG channel is submitted to the interim  
22 cable operator or video service provider in a manner and form that is capable of being  
23 accepted and transmitted by the interim cable operator or video service provider over  
24 its video service network without changing the content or transmission signal and  
25 that is compatible with the technology or protocol, including Internet protocol

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1 television, utilized by the interim cable operator or video service provider to deliver  
2 video service.

3 b. Make the content and programming that the municipality provides or  
4 arranges to provide for transmission on a PEG channel available in a  
5 nondiscriminatory manner to all interim cable operators and video service providers  
6 that provide video service in the municipality.

7 (d) *Duties of interim cable providers and video service provider.* 1. If a  
8 municipality requires an interim cable operator or video service provider to provide  
9 channel capacity for a PEG channel under par. (a), the interim cable operator or video  
10 service provider shall be required to provide only the first 200 feet of transmission  
11 line that is necessary to connect the interim cable operator's or video service  
12 provider's video service network to one distribution point used by the municipality  
13 to transmit programming for the PEG channel.

14 2. If the interconnection of the video service networks of interim cable operators  
15 or video service providers is technically necessary and feasible for the transmission  
16 of programming for any PEG channel for which channel capacity is required by a  
17 municipality under par. (a), the interim cable operators and video service providers  
18 shall negotiate in good faith for interconnection on mutually acceptable rates, terms,  
19 and conditions, except that an interim cable operator or video service provider who  
20 requests interconnection is responsible for interconnection costs, including the cost  
21 of transmitting programming from its origination point to the interconnection point.  
22 Interconnection may be accomplished by direct cable microwave link, satellite, or  
23 any other reasonable method.

24 (6) INSTITUTIONAL NETWORKS. Notwithstanding any franchise, ordinance, or  
25 resolution in effect on the effective date of this subsection ... [revisor inserts date],

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1 no state agency or municipality may require an interim cable operator or video  
2 service provider to provide any institutional network or equivalent capacity on its  
3 video service network.

4 (7) VIDEO SERVICE PROVIDER FEE. (a) *Duty to pay fee.* 1. Notwithstanding s.  
5 66.0611 and except as provided in subd. 2., a video service provider shall, on a  
6 quarterly calendar basis, calculate and pay to each municipality in which the video  
7 service provider provides video service a video service provider fee equal to the  
8 percentage of the video service provider's gross receipts that is specified in par. (b).  
9 A video service provider shall remit the fee to the municipality no later than 45 days  
10 after the end of each quarter. Except as provided in subd. 2. or par. (b) 1., if the  
11 municipality is not required to provide notice under sub. (3) (e) 2., the duty to remit  
12 the fee first applies to the quarter in which the video service provider begins to  
13 provide service in the municipality, and, if the municipality is required to provide  
14 notice under sub. (3) (e) 2., the duty to remit the fee first applies to the quarter in  
15 which the video service provider begins to provide service in the municipality or to  
16 the quarter that includes the 45th day after the video service provider receives the  
17 municipality's notice, whichever quarter is later.

18 2. If a municipality fails to provide the notice specified in sub. (3) (e) 2. before  
19 the deadline specified in sub. (3) (e) 2., no video service provider is required to pay  
20 a video service provider fee, and no interim cable operator is required to pay a  
21 franchise fee, to the municipality until the 45th day after the end of the quarter in  
22 which the municipality provides the notice specified in sub. (3) (e) 2.

23 (b) *Amount of fee.* The percentage applied to a video service provider's gross  
24 receipts under par. (a) 1. for each municipality shall be 5 percent or one of the  
25 following percentages, whichever is less:

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1           1. If no incumbent cable operator was required to pay a franchise fee equal to  
2 a percentage of gross revenues to the municipality immediately before the effective  
3 date of this subdivision .... [revisor inserts date], the municipality may specify a  
4 percentage of no more than 5 percent. The duty of a video service provider to pay the  
5 municipality a video service fee equal to such percentage shall first apply to the  
6 quarter that includes the 45th day after the municipality provides notice of the  
7 percentage to the video service provider.

8           2. If an incumbent cable operator was required to pay a franchise fee equal to  
9 a percentage of gross revenues to the municipality immediately before the effective  
10 date of this subdivision .... [revisor inserts date], that percentage.

11           3. If more than one incumbent cable operator was required to pay a franchise  
12 fee equal to a percentage of gross revenues to the municipality immediately before  
13 the effective date of this subdivision .... [revisor inserts date], the lowest such  
14 percentage.

15           (c) *Generally accepted accounting principles.* All determinations and  
16 computations made under this subsection shall be made pursuant to generally  
17 accepted accounting principles.

18           (d) *Record review.* A municipality may, upon reasonable written request but  
19 no more than once in any 3-year period, for the purpose of ensuring proper and  
20 accurate payment of a video service provider fee, review the business records of a  
21 video service provider that is required to pay the municipality a video service  
22 provider fee.

23           (e) *Actions to enforce payment.* 1. A municipality or a video service provider  
24 may not bring an action concerning the amount of a video service provider fee  
25 allegedly due to the municipality unless the parties have first participated in and



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1 completed good faith settlement discussions. For purposes of any future litigation,  
2 all negotiations pursuant to this paragraph shall be treated as compromise  
3 negotiations under s. 904.08.

4 2. An action regarding a dispute over the amount of a video service provider fee  
5 paid or allegedly due under this subsection shall be commenced within 3 years  
6 following the end of the calendar quarter to which the disputed amount relates or be  
7 barred, unless the parties agree in writing to an extension of time. Notwithstanding  
8 ss. 814.01, 814.02, 814.03, and 814.035, no costs may be allowed in the action to  
9 either party.

10 (f) *Itemization.* A video service provider may identify and collect the amount  
11 related to a video service provider fee as a separate line item on customer bills.

12 (g) *Invalidity of other fees.* If a video service provider pays video service  
13 provider fees to a municipality as required under this subsection, the municipality  
14 may not require the video service provider to pay any compensation under s. 66.0425,  
15 or any permit fee, encroachment fee, degradation fee, or any other fee, for the  
16 occupation of or work within public rights-of-way.

17 **(8) DISCRIMINATION; ACCESS TO SERVICES.** (a) *Discrimination prohibited.* 1. No  
18 video service provider may deny access to video service to any group of potential  
19 residential customers in the video service provider's video franchise area because of  
20 the race or income of the residents in the local area in which the group resides.

21 2. It is a defense to an alleged violation of subd. 1. based on income if the video  
22 service provider has met either of the following conditions:

23 a. No later than 3 years after the date on which the video service provider began  
24 providing video service under this section, at least 25 percent of households with  
25 access to the video service provider's video service are low-income households.

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1           b. No later than 5 years after the date on which the video service provider began  
2 providing video service under this section, at least 30 percent of the households with  
3 access to the video service provider's video service are low-income households.

4           (b) *Access.* 1. A large telecommunications video service provider shall provide  
5 access to its video service to the following percentages of households within the large  
6 telecommunications video service provider's basic local exchange service area:

7           a. Not less than 25 percent no later than 3 years after the date on which the  
8 large telecommunications video service provider began providing video service  
9 under this section.

10           b. Not less than 50 percent no later than 6 years after the date on which the  
11 large telecommunications video service provider began providing video service  
12 under this section, or no later than 2 years after at least 30 percent of households  
13 with access to the large telecommunications video service provider's video service  
14 subscribe to the service for 6 consecutive months, whichever occurs later.

15           2. A large telecommunications video service provider shall file an annual report  
16 with the department regarding the large telecommunications video service  
17 provider's progress in complying with subd. 1.

18           (c) *Extensions and waivers.* A video service provider may apply to the  
19 department for an extension of any time limit specified in par. (a) 2. or (b) or a waiver  
20 of a requirement to comply with par. (b). The department shall grant the extension  
21 or waiver if the video service provider demonstrates to the satisfaction of the  
22 department that the video service provider has made substantial and continuous  
23 efforts to comply with the requirements of this subsection and that the extension or  
24 waiver is necessary due to one or more of the following factors:

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1           1. The video service provider's inability to obtain access to public and private  
2 rights-of-way under reasonable terms and conditions.

3           2. Developments and buildings that are not subject to competition because of  
4 exclusive service arrangements.

5           3. Developments and buildings that are not accessible using reasonable  
6 technical solutions under commercially reasonable terms and conditions.

7           4. Natural disasters.

8           5. Other factors beyond the control of the video service provider.

9           (d) *Alternative technologies.* A video service provider may satisfy the  
10 requirements of this subsection through the use of an alternative technology, other  
11 than satellite service, that does all of the following:

12           1. Offers service, functionality, and content demonstrably similar to the  
13 service, functionality, and content provided through the video service provider's  
14 video service network.

15           2. Provides access to PEG channels and messages broadcast over the  
16 emergency alert system.

17           (e) *Limitations.* Notwithstanding any other provision of this section, a  
18 telecommunications video service provider is not required to provide video service  
19 outside the provider's basic local exchange service area, and a video service provider  
20 that is an incumbent cable operator is not required to provide video service outside  
21 the area in which the incumbent cable operator provided cable service at the time the  
22 department issued a video service franchise to the incumbent cable operator.

23           **(9) CUSTOMER SERVICE STANDARDS.** (a) Except as provided in par. (b), upon 90  
24 days' advance notice, a municipality may require a video service provider to comply  
25 with the customer service standards specified in 47 CFR 76.309 (c) in its provision

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1 of video service. Neither the department nor any municipality shall have the  
2 authority to impose additional or different customer service standards that are  
3 specific to the provision of video service.

4 (b) No video service provider that provides video service in a municipality may  
5 be subject to any customer service standards if there is at least one other person  
6 offering cable or video service in the municipality or if the video service provider is  
7 subject to effective competition, as determined under 47 CFR 76.905, in the  
8 municipality. This paragraph does not apply to any customer service standards  
9 promulgated by rule by the department of agriculture, trade and consumer  
10 protection.

11 (10) LIMITATION ON RATE REGULATION. The department or a municipality may not  
12 regulate the rates charged for any video service by an interim cable operator or video  
13 service provider that provides video service in a municipality if at least one other  
14 interim cable operator or video service provider is providing video service in the  
15 municipality and the other interim cable operator or video service provider is not an  
16 affiliate of the interim cable operator or video service provider. This subsection  
17 applies regardless of whether any affected interim cable operator or video service  
18 provider has sought a determination from the FCC regarding effective competition  
19 under 47 CFR 76.905.

20 (11) TRANSFER OF VIDEO SERVICE FRANCHISE. A person who is issued a video  
21 service franchise may transfer the video service franchise to any  
22 successor-in-interest, including a successor-in-interest that arises through  
23 merger, sale, assignment, restructuring, change of control, or any other transaction.  
24 No later than 10 days after the transfer is completed, the person originally issued the  
25 video service franchise shall provide notice of the transfer to the department and to

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1 any municipality in which the person has provided video service, and the person to  
2 whom the video service franchise is transferred shall submit the information and  
3 affidavit specified in sub. (3) (d) 1. and 4. to the department and to any such  
4 municipality. Neither the department nor any municipality shall have any authority  
5 to review or approve the transfer.

6 (13) RULE-MAKING; ENFORCEMENT. (a) Notwithstanding s. 227.11, the  
7 department may not promulgate rules interpreting or establishing procedures for  
8 this section.

9 (b) Except as provided in sub. (7) (e), a municipality, interim cable operator, or  
10 video service provider that is affected by a failure to comply with this section may  
11 bring an action to enforce this section. If a court finds that a municipality, interim  
12 cable operator, or video service provider has not complied with this section, the court  
13 shall order the municipality, interim cable operator, or video service provider to  
14 comply with this section. Notwithstanding ss. 814.01, 814.02, 814.03, and 814.035,  
15 no costs may be allowed in an action under this paragraph to any party.

16 (c) Any violation of this section may be enforced by an action on behalf of the  
17 state by the department of justice.

18 **SECTION 8.** 66.0421 (title) of the statutes is amended to read:

19 **66.0421 (title) Access to cable video service.**

20 **SECTION 9.** 66.0421 (1) (a) of the statutes is repealed.

21 **SECTION 10.** 66.0421 (1) (b) of the statutes is repealed.

22 **SECTION 11.** 66.0421 (1) (c) of the statutes is created to read:

23 66.0421 (1) (c) "Video service" has the meaning given in s. 66.0420 (2) (y).

24 **SECTION 12.** 66.0421 (1) (d) of the statutes is created to read:

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1           66.0421 (1) (d) "Video service provider" has the meaning given in s. 66.0420 (2)  
2           (zg), and also includes an interim cable operator, as defined in s. 66.0420 (2) (n).

3           **SECTION 13.** 66.0421 (2) of the statutes is amended to read:

4           66.0421 (2) INTERFERENCE PROHIBITED. The owner or manager of a multiunit  
5           dwelling under common ownership, control or management or of a mobile home park  
6           or the association or board of directors of a condominium may not prevent a cable  
7           operator video service provider from providing cable video service to a subscriber who  
8           is a resident of the multiunit dwelling, mobile home park or of the condominium or  
9           interfere with a cable operator video service provider providing cable video service  
10          to a subscriber who is a resident of the multiunit dwelling, mobile home park or of  
11          the condominium.

12          **SECTION 14.** 66.0421 (3) of the statutes is amended to read:

13          66.0421 (3) INSTALLATION IN MULTIUNIT BUILDING. Before installation, a cable  
14          operator video service provider shall consult with the owner or manager of a  
15          multiunit dwelling or with the association or board of directors of a condominium to  
16          establish the points of attachment to the building and the methods of wiring. A cable  
17          operator video service provider shall install facilities to provide cable video service  
18          in a safe and orderly manner and in a manner designed to minimize adverse effects  
19          to the aesthetics of the multiunit dwelling or condominium. Facilities installed to  
20          provide cable video service may not impair public safety, damage fire protection  
21          systems or impair fire-resistive construction or components of a multiunit dwelling  
22          or condominium.

23          **SECTION 15.** 66.0421 (4) of the statutes is amended to read:

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1           66.0421 (4) REPAIR RESPONSIBILITY. A ~~cable operator~~ video service provider is  
2 responsible for any repairs to a building required because of the construction,  
3 installation, disconnection or servicing of facilities to provide ~~cable~~ video service.

4           **SECTION 16.** 66.0422 (title) of the statutes is amended to read:

5           **66.0422 (title) ~~Cable television~~ Video service, telecommunications, and**  
6 **broadband facilities.**

7           **SECTION 17.** 66.0422 (1) (a) of the statutes is repealed.

8           **SECTION 18.** 66.0422 (1) (d) of the statutes is created to read:

9           66.0422 (1) (d) "Video service" has the meaning given in s. 66.0420 (2) (y).

10          **SECTION 19.** 66.0422 (2) (intro.) of the statutes is amended to read:

11          66.0422 (2) (intro.) Except as provided in subs. (3), (3d), (3m), and (3n), no local  
12 government may enact an ordinance or adopt a resolution authorizing the local  
13 government to construct, own, or operate any facility for providing ~~cable~~ video  
14 service, telecommunications service, or broadband service, directly or indirectly, to  
15 the public, unless all of the following are satisfied:

16          **SECTION 20.** 66.0422 (3) (b) of the statutes is amended to read:

17          66.0422 (3) (b) A majority of the governing board of the local government votes  
18 to submit the question of supporting the operation of the facility for providing ~~cable~~  
19 video service, telecommunications service, or Internet access service, directly or  
20 indirectly to the public, by the local government to the electors in an advisory  
21 referendum and a majority of the voters in the local government voting at the  
22 advisory referendum vote to support operation of such a facility by the local  
23 government.

24          **SECTION 21.** 66.0422 (3n) of the statutes is amended to read:

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1           66.0422 (3n) Subsection (2) does not apply to a local government that, on March  
2           1, 2004, was providing ~~cable~~ video service to the public.

3           **SECTION 22.** 70.111 (25) of the statutes is amended to read:

4           70.111 (25) DIGITAL BROADCASTING EQUIPMENT. Digital broadcasting equipment  
5           owned and used by a radio station, television station, or ~~cable television system~~ video  
6           service network, as defined in s. ~~66.0419 (2) (d)~~ 66.0420 (2) (zb).

7           **SECTION 23.** 76.80 (3) of the statutes is amended to read:

8           76.80 (3) "Telecommunications services" means the transmission of voice,  
9           video, facsimile or data messages, including telegraph messages, except that  
10          "telecommunications services" does not include ~~cable television~~ video service, as  
11          defined in s. 66.0420 (2) (y), radio, one-way radio paging or transmitting messages  
12          incidental to transient occupancy in hotels, as defined in s. 254.61 (3).

13          **SECTION 24.** 77.52 (2) (a) 12. of the statutes is amended to read:

14          77.52 (2) (a) 12. The sale of cable television system services, or video services,  
15          as defined in s. 66.0420 (2) (y), including installation charges.

16          **SECTION 25.** 100.195 (1) (c) 2. of the statutes, as created by 2005 Wisconsin Act  
17          458, is amended to read:

18          100.195 (1) (c) 2. Telecommunications services or ~~cable television~~ services.

19          **SECTION 26.** 100.195 (1) (h) 1. of the statutes, as created by 2005 Wisconsin Act  
20          458, is repealed and recreated to read:

21          100.195 (1) (h) 1. Video service, as defined in s. 66.0420 (2) (y).

22          **SECTION 27.** 100.209 of the statutes is repealed.

23          **SECTION 28.** 165.25 (4) (ar) of the statutes, as affected by 2005 Wisconsin Act  
24          458, is amended to read:



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1           165.25 (4) (ar) The department of justice shall furnish all legal services  
2 required by the department of agriculture, trade and consumer protection relating  
3 to the enforcement of ss. 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,  
4 100.182, 100.20, 100.205, 100.207, ~~100.209~~, 100.21, 100.28, 100.37, 100.42, 100.50,  
5 100.51, and 100.195 and chs. 126, 136, 344, 704, 707, and 779, together with any  
6 other services as are necessarily connected to the legal services.

7           **SECTION 29.** 196.01 (1g) of the statutes is amended to read:

8           196.01 (1g) "Basic local exchange service" means the provision to residential  
9 customers of an access facility, whether by wire, cable, fiber optics or radio, and  
10 essential usage within a local calling area for the transmission of high-quality  
11 2-way interactive switched voice or data communication. "Basic local exchange  
12 service" includes extended community calling and extended area service. "Basic  
13 local exchange service" does not include additional access facilities or any  
14 discretionary or optional services that may be provided to a residential customer.  
15 "Basic local exchange service" does not include cable television service or services  
16 provided by a commercial mobile radio service provider.

17           **SECTION 30.** 196.01 (1p) of the statutes is repealed and recreated to read:

18           196.01 (1p) "Cable service" has the meaning given in 47 USC 522 (6).

19           **SECTION 31.** 196.01 (9m) of the statutes is amended to read:

20           196.01 (9m) "Telecommunications service" means the offering for sale of the  
21 conveyance of voice, data or other information at any frequency over any part of the  
22 electromagnetic spectrum, including the sale of service for collection, storage,  
23 forwarding, switching and delivery incidental to such communication and including  
24 the regulated sale of customer premises equipment. "Telecommunications service"  
25 does not include cable television service or broadcast service.