

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 477 of the Regular Session

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H3/6/07 H3/8/07

A Bill

HOUSE BILL 1657

5 By: Representatives Rosenbaum, Anderson  
6 By: Senator Bookout  
7  
8

9 **For An Act To Be Entitled**

10 AN ACT TO AUTHORIZE CITIES AND TOWNS TO COLLECT  
11 AN ADDITIONAL FRANCHISE FEE FROM TELEPHONE  
12 COMPANIES; AND FOR OTHER PURPOSES.  
13  
14  
15

16 **Subtitle**

17 TO AUTHORIZE CITIES AND TOWNS TO COLLECT  
18 AN ADDITIONAL FRANCHISE FEE FROM  
19 TELEPHONE COMPANIES.  
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code, § 14-200-101(a), concerning the utility  
25 rates and franchise fees of cities and towns, is amended to read as follows:

26 (a)(1) As used in this section, "public utility" means any electric,  
27 gas, sewer, or telephone company, and any company providing similar services,  
28 except a company excluded from the definition of "public utility" under § 23-  
29 1-101(9)(B)(ii), a consolidated utility district under § 14-217-101 et seq.,  
30 and a water or light commission under § 14-201-101 et seq.

31 (2) Acting by ordinance or resolution of its council, board of  
32 directors, or commission, every city and town shall have jurisdiction to:

33 (A)(i) Except as provided in § 23-4-201, determine the  
34 terms and conditions upon which the public utility may be permitted to occupy  
35 the streets, highways, or other public places within the municipality,



1 including without limitation:

2 (a) the The rates, quality, and character of  
 3 each kind of, and rates for, product or service to be furnished or rendered  
 4 by any a-public utility within the city or town and all other terms and  
 5 conditions; and

6 (b) ,including a A reasonable franchise fee,  
 7 upon which the public utility may be permitted to occupy the streets,  
 8 highways, or other public places within the municipality, and.

9 (ii) the The ordinance or resolution shall be deemed  
 10 prima facie reasonable, provided that.

11 (iii) ne A franchise fee for a utility including a  
 12 telephone company providing services other than basic local exchange service  
 13 shall not exceed the higher of the amount in effect as to that entity on  
 14 January 1, 1997, or four and one-quarter percent (4 1/4%), unless agreed to  
 15 by the affected utility or approved by the voters of the municipality;

16 (B) Require a telephone company providing basic local  
 17 exchange service to pay a reasonable franchise fee not to exceed the higher  
 18 of the amount of the telephone company's franchise fee on January 1, 1997, or  
 19 a fee equal to four and one-quarter percent (4 1/4%) of the revenues received  
 20 by the telephone company from providing basic local exchange services,  
 21 unless:

22 (i) A higher rate or franchise fee is approved by  
 23 the voters of the municipality; or

24 (ii) The telephone company agrees to pay a higher  
 25 percentage or on services offered in addition to basic local exchange  
 26 services;

27 ~~(B)~~(C) Require of any public utility such additions and  
 28 extensions to its physical plant within the municipality as shall be  
 29 reasonable and necessary in the interest of the public and to designate the  
 30 location and nature of all such additions and extensions, the time within  
 31 which they must be completed, and all conditions under which they must be  
 32 constructed; and

33 ~~(C)~~(D) Provide a penalty for noncompliance with the  
 34 provisions of any ordinance or resolution adopted pursuant to the provisions  
 35 of this chapter.

36 ~~(D)~~(3) Nothing herein in this section shall limit the authority

1 of the public utility to collect from its customers residing in each  
2 municipality an amount which equals the franchise fee assessed by the  
3 municipality on the public utility; ~~and.~~

4 ~~(E)(4) The term "public utility", for the purposes of this~~  
5 ~~section, shall mean any electric, gas, sewer, or telephone company, and any~~  
6 ~~company providing similar services, except those currently excluded pursuant~~  
7 ~~to § 23-1-101(9)(B)(ii); and provided further that, when If franchise fees~~  
8 ~~assessed for basic local exchange services are based on revenues, ~~such~~ the~~  
9 ~~revenues shall consist of revenues from basic local service, excluding, among~~  
10 ~~other things, extension, terminal equipment, toll, access, yellow pages, and~~  
11 ~~other miscellaneous equipment revenues.~~

12 ~~(2)(5)(A) Effective January 1, 1994, regardless of the date of~~  
13 ~~filing, no No cause of action that challenges the right of a municipality to~~  
14 ~~assess a franchise fee against a public utility for permission to occupy the~~  
15 ~~streets, highways, or other public places within the municipality shall~~  
16 ~~result in the award of money damages;.~~

17 ~~(B) provided, however, that However, consistent with the~~  
18 ~~provisions of Arkansas Constitution, Article 16, § 13, any cause of action~~  
19 ~~for illegal exaction found to be meritorious may result in the granting of~~  
20 ~~injunctive relief.~~

21  
22 /s/ Rosenbaum, et al

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24 APPROVED: 3/23/2007