

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.

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

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.
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Subtitle

16 TO AUTHORIZE CITIES AND TOWNS TO COLLECT
17 AN ADDITIONAL FRANCHISE FEE FROM
18 TELEPHONE COMPANIES.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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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,
36 including without limitation:



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

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

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

10 (iii) ~~no~~ A franchise fee for a utility including a
11 telephone company providing services other than basic local exchange service
12 shall not exceed the higher of the amount in effect ~~as to that entity~~ on
13 January 1, 1997, or four and one-quarter percent (4 1/4%), unless agreed to
14 by the affected utility or approved by the voters of the municipality;

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

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

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

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

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

35 ~~(D)~~(3) Nothing herein in this section shall limit the authority
36 of the public utility to collect from its customers residing in each

1 municipality an amount which equals the franchise fee assessed by the
2 municipality on the public utility; ~~and.~~

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

11 ~~(2)(5)(A) Effective January 1, 1994, regardless of the date of~~
12 ~~filing, no~~ No cause of action that challenges the right of a municipality to
13 assess a franchise fee against a public utility for permission to occupy the
14 streets, highways, or other public places within the municipality shall
15 result in the award of money damages; ~~.~~

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

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21 /s/ Rosenbaum, et al
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