

## House Resolution 530

By: Representatives Wix of the 33<sup>rd</sup>, Post 1, Harbin of the 80<sup>th</sup>, Rogers of the 20<sup>th</sup>, Barnes of the 84<sup>th</sup>, Post 2, and Dodson of the 84<sup>th</sup>, Post 1

## A RESOLUTION

1 Creating the House Study Committee on Franchise Fees and the Use of Public Rights of  
2 Way; and for other purposes.

3 WHEREAS, current Georgia law gives municipalities the power to grant franchises to  
4 telephone, gas, electric, and cable companies and other public utilities for the use of  
5 municipal rights of way for the purpose of providing utility services; and

6 WHEREAS, there are substantial issues related to fees and other taxes charged to telephone,  
7 gas, electric, and cable companies and other public utilities by municipalities which are paid  
8 by such utilities or passed through to the consumer which arise out of the provision of utility  
9 services or the use of public rights of way; and

10 WHEREAS, in addition, counties may grant franchises for the operation of cable television  
11 systems within their territorial limits; and

12 WHEREAS, franchises granted by municipalities and counties usually contain conditions,  
13 including the payment of a franchise fee by the utility; and

14 WHEREAS, the amount and structure of franchise fees may affect the development of  
15 competition in the telecommunications, natural gas, electric, and cable industries, especially  
16 in cases where competition exists between the public and private sectors; and

17 WHEREAS, franchise fees compensate the citizens of Georgia's local governments for the  
18 use of public rights of way and for the cost to local governments of acquiring and  
19 maintaining those public rights of way; and

20 WHEREAS, fees charged to public utilities generate a significant source of revenue for  
21 Georgia's local governments; and

1 WHEREAS, to the extent consistent with other provisions of law, access to public rights of  
2 way should be granted by municipalities and counties on a competitively neutral and  
3 nondiscriminatory basis; and

4 WHEREAS, technology advances and population growth are recent developments  
5 necessitating the need to study the franchise fee system; and

6 WHEREAS, other states are examining the current franchise fee system and the potential for  
7 tax simplification as the consequence of technology advances and population growth; and

8 WHEREAS, tax simplification may include replacing the current system of franchise fees  
9 with an alternative method of compensating local governments for the use of public rights  
10 of way; and

11 WHEREAS, some have questioned whether the private use of public rights of way without  
12 compensation is in violation of the Gratuities Clause of the Georgia Constitution; and

13 WHEREAS, these matters merit a thorough legislative study.

14 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES that  
15 there is created the House Study Committee on Franchise Fees and the Use of Public Rights  
16 of Way to be composed of ten members. The members shall consist of two members of the  
17 House of Representatives to be appointed by the Speaker of the House of Representatives  
18 and six additional members from the following organizations or categories who also shall be  
19 appointed by the Speaker of the House of Representatives: the Georgia Municipal  
20 Association; the Association County Commissioners of Georgia; consumers of utility  
21 service; investor owned telecommunications, gas, electric, and cable industries; electric and  
22 telephone cooperatives; and municipal gas and electric suppliers. In making such  
23 appointments, the Speaker of the House of Representatives shall ensure that two consumers  
24 of utility service are appointed as members of the committee. The chairperson of the Public  
25 Service Commission or his or her designee and the director of the consumers' utility counsel  
26 division of the Governor's Office of Consumer Affairs or his or her designee shall also be  
27 members of the committee. The Speaker of the House of Representatives shall designate one  
28 of the members of the House of Representatives to serve as chairperson of the committee.  
29 The committee shall meet upon call of the chairperson.

1 BE IT FURTHER RESOLVED that the committee shall undertake a study of the conditions,  
2 needs, issues, and problems mentioned above or related thereto and recommend any actions  
3 or legislation which the committee deems necessary or appropriate. The committee may  
4 conduct such meetings at such places and at such times as it may deem necessary or  
5 convenient to enable it to exercise fully and effectively its powers, perform its duties, and  
6 accomplish the objectives and purposes of this resolution. The legislative members of the  
7 committee shall receive the allowances authorized for legislative members of interim  
8 legislative committees but shall receive the same for not more than five days unless  
9 additional days are authorized, and the nonlegislative members of the committee shall serve  
10 without compensation. The funds necessary to carry out the provisions of this resolution  
11 shall come from the funds appropriated to the House of Representatives. In the event the  
12 committee makes a report of its findings and recommendations, with suggestions for  
13 proposed legislation, if any, such report shall be made on or before December 31, 2003. The  
14 committee shall stand abolished on December 31, 2003.