

House Bill 938

By: Representative Ehrhart of the 36<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,  
2 so as to provide that a franchise fee shall be deemed to be a franchise tax; to provide that a  
3 municipality shall not collect a franchise tax for the operation of cable television systems  
4 from residents in unincorporated areas; to provide that franchise taxes shall be approved by  
5 referendum of a majority of voters prior to imposition, increase, or extension; to provide that  
6 municipalities must provide access to public utilities regardless of the result of any  
7 referendum; to provide for certain information on itemized bills; to provide that franchise  
8 taxes may not be included in the base rates of a public utility; to provide that a municipality  
9 shall not collect a franchise tax from public utilities from residents in unincorporated areas;  
10 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
11 for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
15 in Code Section 36-18-3, relating to restriction on authority of counties and municipalities  
16 to regulate cable television systems, as follows:

17 "36-18-3.

18 A county shall neither grant a franchise nor collect a franchise ~~fee~~ tax for the operation of  
19 cable television systems within the corporate limits of any municipality except by  
20 agreement with the municipality. A municipality shall neither grant a franchise nor collect  
21 a franchise ~~fee~~ tax for the operation of cable television systems within the unincorporated  
22 area of a county ~~except by agreement with the county.~~"

23 style="text-align:center">**SECTION 2.**

24 Said title is further amended by revising paragraph (7) of Code Section 36-34-2, relating to  
25 general powers regarding administration of municipal government, as follows:

1       "(7)(A) The power to grant franchises to or make contracts with railroads, street  
2 railways, or urban transportation companies, electric light or power companies, gas  
3 companies, steam-heat companies, telephone and telegraph companies, water  
4 companies, and other public utilities for the use and occupancy of the streets of the city,  
5 for the purpose of rendering utility services, upon such conditions and for such time as  
6 the governing authority of the municipal corporation may deem wise and subject to the  
7 Constitution and the general laws of this state. Any fee, franchise fee, or other similar  
8 monetary consideration of any name collected from or passed on to customers of public  
9 utilities or companies as a result of franchise agreements or contracts shall be deemed  
10 to be a franchise tax. On and after July 1, 2008, no franchise tax shall be imposed,  
11 increased, or extended by a municipality on a public utility through a franchise  
12 agreement or contract unless such tax has been approved by a majority of the qualified  
13 voters in the municipality by referendum conducted at the next regularly scheduled  
14 municipal election. In the event that any such referendum is not approved, the  
15 municipal corporation shall nevertheless be required to provide access to a public utility  
16 for the use and occupancy of the streets of the city for the purpose of rendering utility  
17 services. Nothing in this paragraph shall be construed to impair any franchise  
18 agreement or contract in effect on the effective date of this Act; provided, however, that  
19 if a referendum conducted pursuant to this paragraph is not approved which results in  
20 a potential contract impairment issue relating to a franchise agreement or contract, the  
21 municipality shall be required to enter into good faith negotiations to revise the terms  
22 of such franchise agreement or contract to attempt to eliminate the impairment issue.  
23 In the event that renegotiations are unsuccessful, the municipality shall be required to  
24 rebate any franchise taxes paid after the date of the referendum back to the customers.  
25 (B) The amount of fees taxes collected from municipal customers of public utilities  
26 or companies as a result of franchise agreements or contracts authorized by this  
27 paragraph shall be itemized on bills or invoices transmitted to such municipal  
28 customers for utility services, shall include a statement that the charge is a tax, and shall  
29 clearly indicate the municipality which will receive the tax. ~~The requirements of this~~  
30 ~~subparagraph shall not apply to fees that are included in the system-wide charges or~~ No  
31 franchise tax or portion thereof shall be included in the base rates of a public utility or  
32 company subject to a franchise agreement or contract.  
33 (C) A municipality shall neither grant a franchise nor collect a franchise tax for the  
34 operation of public utilities within the unincorporated area of a county."

