

House Bill 48

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 revise and change provisions regarding franchise fees; to provide that such fees shall  
3 be deemed to be taxes; to provide for conditions, requirements, and limitations regarding the  
4 imposition and collection of a franchise tax; to provide for related matters; to provide for an  
5 effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
9 by revising Code Section 36-18-3, relating to restriction on authority of counties and  
10 municipalities to regulate cable television systems, as follows:

11 "36-18-3.

12 A county shall neither grant a franchise nor collect a franchise ~~fee~~ tax for the operation of  
13 cable television systems within the corporate limits of any municipality except by  
14 agreement with the municipality. A municipality shall neither grant a franchise nor collect  
15 a franchise ~~fee~~ tax for the operation of cable television systems within the unincorporated  
16 area of a county ~~except by agreement with the county.~~"

17 **SECTION 2.**

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

20 "(7)(A) The power to grant franchises to or make contracts with railroads, street  
21 railways, or urban transportation companies, electric light or power companies, gas  
22 companies, steam-heat companies, telephone and telegraph companies, water  
23 companies, and other public utilities for the use and occupancy of the streets of the city,  
24 for the purpose of rendering utility services, upon such conditions and for such time as  
25 the governing authority of the municipal corporation may deem wise and subject to the

26 Constitution and the general laws of this state. Any fee, franchise fee, or other similar  
 27 monetary consideration of any name collected from or passed on to customers of public  
 28 utilities or companies as a result of franchise agreements or contracts shall be deemed  
 29 to be a franchise tax. Between July 1, 2009, and September 30, 2009, a municipality  
 30 that is assessing a franchise tax as of June 30, 2009, shall conduct at least two public  
 31 hearings held at least two weeks apart. Notice of the time, place, and date of each  
 32 hearing shall be published in a newspaper of general circulation within the jurisdiction  
 33 of the municipality once a week for the two weeks preceding the week in which each  
 34 hearing is to be held. Further, prior to imposing a new franchise tax or increasing a  
 35 franchise tax on and after July 1, 2009, a municipality shall conduct at least two public  
 36 hearings in accordance with the provisions of this paragraph.

37 (B)(i) The amount of ~~fees taxes~~ collected from municipal customers of public utilities  
 38 or companies as a result of franchise agreements or contracts authorized by this  
 39 paragraph shall be itemized on bills or invoices transmitted to such municipal  
 40 customers for utility services, shall include a statement that the charge is a tax, and  
 41 shall clearly indicate the municipality which will receive the tax. ~~The requirements~~  
 42 ~~of this subparagraph shall not apply to fees that are included in the system-wide~~  
 43 ~~charges or~~

44 (ii) No franchise tax or portion thereof shall be included in the base rates of a public  
 45 utility or company subject to a franchise agreement or contract.

46 (iii) Any franchise tax authorized pursuant to this paragraph shall not be levied on or  
 47 computed based on any revenues from customers of an electric light or power  
 48 company if such customers are engaged in the manufacture or processing of tangible  
 49 personal property primarily for resale, nor shall such customers be charged a franchise  
 50 tax or portion thereof.

51 (C) A municipality shall neither grant a franchise nor collect a franchise tax for the  
 52 operation of public utilities within the unincorporated area of a county."

### 53 SECTION 3.

54 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 55 without such approval.

### 56 SECTION 4.

57 All laws and parts of laws in conflict with this Act are repealed.