

House Bill 518

By: Representatives Hawkins of the 27th, Parsons of the 44th, Maxwell of the 17th, and Pruett of the 149th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 46-5-1 of the Official Code of Georgia Annotated, relating to
2 exercise of power of eminent domain by telephone companies, placement of posts and other
3 fixtures, regulation of construction of fixtures, posts, and wires near railroad tracks, liability
4 of telephone companies for damages, required information, and due compensation, so as to
5 specify the accounts or portions thereof considered to be included as part of the term "actual
6 recurring local service revenues"; to provide for a definition; to provide for the due
7 compensation to be paid by telephone companies that do not have certain end user customers;
8 to revise terminology for purposes of conformity; to provide for related matters; to provide
9 for an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Code Section 46-5-1 of the Official Code of Georgia Annotated, relating to exercise of power
13 of eminent domain by telephone companies, placement of posts and other fixtures, regulation
14 of construction of fixtures, posts, and wires near railroad tracks, liability of telephone
15 companies for damages, required information, and due compensation, is amended by
16 repealing paragraph (9) of subsection (b) and enacting a new paragraph (9) to read as
17 follows:

18 "(9) As used in this Code section, the term 'due compensation,' with regard to a municipal
19 authority, means an amount equal to no more than 3 percent of actual recurring local
20 service revenues received by such company from its retail, end user customers located
21 within the boundaries of such municipal authority. The term 'actual recurring local
22 service revenues' means those revenues customarily included in the Uniform System of
23 Accounts as prescribed by the Federal Communications Commission for Class 'A' and
24 'B' companies; provided, however, that only the local service portion of the following
25 accounts shall be included:

- 26 (A) Basic local service revenue, as defined in 47 C.F.R. Section 32.5000 as such
 27 definition existed on January 1, 2017;
- 28 (B) Basic area revenue, as defined in 47 C.F.R. Section 32.5001 as such definition
 29 existed on January 1, 2017;
- 30 (C) Optional extended area revenue, as defined in 47 C.F.R. Section 32.5002 as such
 31 definition existed on January 1, 2017;
- 32 (D) Public telephone revenue which shall include message revenue, such as that which
 33 is coin paid, and other revenue derived from public and semi-public telephone services
 34 provided within the basic service area;
- 35 (E) Private line revenue, as defined in 47 C.F.R. Section 32.5040 as such definition
 36 existed on January 1, 2017; provided, however, that the portion of such accounts
 37 attributable to audio and video program transmission service where both terminals of
 38 the private line are within the corporate limits of the municipal authority shall not be
 39 included;
- 40 (F) Other basic exchange revenue, as defined in 47 C.F.R. Section 32.5060 as such
 41 definition existed on January 1, 2017;
- 42 (G) Network access revenue, as defined in 47 C.F.R. Section 32.4999 as such
 43 definition existed on January 1, 2017;
- 44 (H) Directory revenue, as defined in 47 C.F.R. Section 32.5230 as such definition
 45 existed on January 1, 2017; provided, however, that the portion of such accounts
 46 attributable to revenue derived from listings in portions of directories not considered
 47 white pages shall not be included;
- 48 (I) Nonregulated operating revenue, as defined in 47 C.F.R. Section 32.5280 as such
 49 definition existed on January 1, 2017; provided, however, that the portion of such
 50 accounts attributable to revenue derived from private lines shall not be included; and
- 51 (J) Uncollectible revenue, as defined in 47 C.F.R. Section 32.5300 as such definition
 52 existed on January 1, 2017.
- 53 Any charge imposed by a municipal authority shall be assessed in a nondiscriminatory
 54 and competitively neutral manner."

55 SECTION 2.

56 Said Code section is further amended by revising paragraphs (10), (18), and (19) of
 57 subsection (b) as follows:

58 "(10)(A) For purposes of this paragraph, the term 'recurring revenues for
 59 telecommunications services from wholesale telecommunications customers' means
 60 revenues received for the provision of telecommunications services that are:

61 (i) Used as a component part of a telecommunications service;

62 (ii) Integrated into a telecommunications service; or

63 (iii) Resold by another provider to the ultimate retail purchaser.

64 (B) Any due compensation paid to municipal authorities pursuant to paragraph (9) of
 65 this subsection or subparagraph (C) or (D) of this paragraph shall be in lieu of any other
 66 permit fee, encroachment fee, degradation fee, disruption fee, business license tax,
 67 occupational license tax, occupational license fee, or other fee otherwise permitted
 68 pursuant to the provisions of subparagraph (A) of paragraph (7) of Code Section
 69 36-34-2 or Code Section 32-4-92, et seq. or any other provision of law regardless of
 70 nomenclature.

71 (C) If a telephone company that holds a certificate of authority granted by the
 72 commission does not have retail, end user customers located within the boundaries of
 73 a municipal authority, but the telephone company does receive recurring revenues for
 74 telecommunications services from wholesale telecommunications customers located
 75 within the boundaries of such municipal authority, then the payment by such company
 76 at an amount equal to no more than 3 percent of actual recurring revenues received for
 77 the provision of telecommunications service by such company from its wholesale, end
 78 user customers located within the boundaries of such municipal authority shall be
 79 considered the payment of due compensation. Any telephone company that is paying
 80 due compensation under paragraph (9) of this subsection shall not be required to pay
 81 the additional fees set forth in this subparagraph.

82 (D) If a telephone company that holds a certificate of authority granted by the
 83 commission does not have retail or wholesale, end user customers located within the
 84 boundaries of a municipal authority, then the payment by such company at a rate of an
 85 annual amount not to exceed \$500.00 per linear mile or portion thereof shall be
 86 considered the payment of due compensation. Any telephone company that is paying
 87 due compensation under paragraph (9) of this subsection or subparagraph (C) of this
 88 paragraph shall not be required to pay the additional fees set forth in this subparagraph.
 89 Any telephone company that is paying video franchise fees pursuant to Chapter 76 of
 90 Title 36 or due compensation pursuant to this Code section shall not be charged any
 91 additional permit fee, encroachment fee, degradation fee, disruption fee, business
 92 license tax, occupational license tax, occupational license fee, or other fee otherwise
 93 permitted pursuant to the provisions of subparagraph (A) of paragraph (7) of Code
 94 Section 36-34-2 or Code Section 32-4-92, et seq. or any other provision of law
 95 regardless of nomenclature."

96 ~~“(18) If a telephone company does not have retail, end user customers located within the~~
 97 ~~boundaries of a municipal authority, then the payment by such company at the same rates~~
 98 ~~that such payments were being made as of January 1, 2008, to a municipal authority for~~

99 ~~the use of its rights of way shall be considered the payment of due compensation;~~
100 ~~provided, however, that at the expiration date of any existing agreement for use of such~~
101 ~~municipal rights of way or December 31, 2012, whichever is earlier, the payment at rates~~
102 ~~in accordance with the rates set by regulations promulgated by the Department of~~
103 ~~Transportation shall be considered the payment of due compensation. Provided, further,~~
104 ~~that if a telephone company begins providing service after January 1, 2008, and such~~
105 ~~telephone company does not have retail, end user customers located within the~~
106 ~~boundaries of a municipal authority, the payment by such company at rates in accordance~~
107 ~~with the rates set by regulations promulgated by the Department of Transportation to a~~
108 ~~municipal authority for the use of its rights of way shall be considered the payment of due~~
109 ~~compensation.~~
110 (19)(18) Nothing in this Code section shall be construed to affect any franchise fee
111 payments which were in dispute on or before January 1, 2008."

112 **SECTION 3.**

113 Said Code section is further amended by replacing "Georgia Public Service Commission"
114 with "commission" everywhere such term occurs.

115 **SECTION 4.**

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

118 **SECTION 5.**

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