

House Bill 556

By: Representatives Hawkins of the 27th, Parsons of the 44th, Dollar of the 45th, and Williamson of the 115th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 46 of the Official Code of Georgia Annotated, relating to public utilities and
2 public transportation, so as to provide limitations on fees that may be charged for installation
3 of telephone facilities; to provide for the due compensation to be paid to municipal
4 authorities by telephone companies; to revise terminology for purposes of conformity; to
5 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
6 for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

9 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
10 transportation, is amended in Code Section 46-5-1, relating to exercise of power of eminent
11 domain by telephone companies, placement of posts and other fixtures, regulation of
12 construction of fixtures, posts, and wires near railroad tracks, liability of telephone
13 companies for damages, required information, and due compensation, by revising
14 paragraphs (10) and (18) of subsection (b) as follows:

15 "(10) Any due compensation paid to municipal authorities pursuant to paragraph (9) of
16 this subsection or subparagraph (B) of paragraph (18) of this subsection shall be in lieu
17 of any other permit fee, encroachment fee, degradation fee, disruption fee, business
18 license tax, occupational license tax, occupational license fee, or other fee otherwise
19 permitted pursuant to the provisions of subparagraph (A) of paragraph (7) of Code
20 Section 36-34-2 or Code Section 32-4-92, et seq., or any other provision of law regardless
21 of nomenclature."

22 "(18)(A) Except as provided in subparagraph (B) of this paragraph, if ~~if~~ a telephone
23 company does not have retail, end user customers located within the boundaries of a
24 municipal authority, then the payment by such company at the same rates that such
25 payments were being made as of January 1, 2008, to a municipal authority for the use
26 of its rights of way shall be considered the payment of due compensation; provided,

27 however, that at the expiration date of any existing agreement for use of such municipal
 28 rights of way or December 31, 2012, whichever is earlier, the payment at rates in
 29 accordance with the rates set by regulations promulgated by the Department of
 30 Transportation shall be considered the payment of due compensation. Provided,
 31 further, that if a telephone company begins providing service after January 1, 2008, and
 32 such telephone company does not have retail, end user customers located within the
 33 boundaries of a municipal authority, the payment by such company at rates in
 34 accordance with the rates set by regulations promulgated by the Department of
 35 Transportation to a municipal authority for the use of its rights of way shall be
 36 considered the payment of due compensation.

37 (B) If a telephone company does not have retail, end user customers located within the
 38 boundaries of a municipal authority, but does occupy the public rights of way within
 39 the boundaries of that municipal authority with one or more small wireless facilities that
 40 produce actual recurring revenues for telecommunications services provided by such
 41 telephone company, then due compensation for the use of its rights of way for the fiber
 42 optic cable owned by the telephone company that services the small wireless facilities
 43 shall be 3 percent of actual recurring revenues received by the telephone company from
 44 its provision of telecommunications services from such small wireless facilities.

45 (C) As used in this paragraph, the term 'small wireless facility' means radio
 46 transceivers; surface wave couplers; antennas; coaxial, fiber optic, or other cabling;
 47 power supply; backup batteries; and comparable and associated equipment, regardless
 48 of technological configuration, at a fixed location or fixed locations that enable
 49 communication or surface wave communication between user equipment and a
 50 communications network and that meet the following qualifications:

51 (i) Each antenna could fit within an enclosure of no more than six cubic feet in
 52 volume; and

53 (ii) All other wireless equipment associated with the facility is cumulatively no more
 54 than 28 cubic feet in volume, measured based upon the exterior dimensions of height
 55 by width by depth of any enclosure that may be used. The following types of
 56 associated ancillary equipment are not included in the calculation of the volume of all
 57 other wireless equipment associated with any such facility:

58 (I) Electric meters;

59 (II) Concealment elements;

60 (III) Telecommunications demarcation boxes;

61 (IV) Grounding equipment;

62 (V) Power transfer switches;

63 (VI) Cut-off switches; and

64 (VII) Vertical cable runs for connection of power and other services.
65 Such term shall not include a pole, decorative pole, or support structure on, under, or
66 within which the equipment is located or collocated or to which the equipment is
67 attached and shall not include any wireline backhaul facilities or coaxial, fiber optic,
68 or other cabling that is between small wireless facilities, poles, decorative poles, or
69 support structures or that is not otherwise immediately adjacent to or directly associated
70 with a particular antenna."

71 **SECTION 2.**

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

74 **SECTION 3.**

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