

1 HB62
2 175647-1
3 By Representative Beech
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 07-FEB-17
6 PFD: 01/25/2017

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8 SYNOPSIS: Under existing law, a municipality or
9 municipal instrumentality may provide
10 telecommunication services. The law specifies that
11 state and local governmental agencies may require
12 fair and reasonable compensation from
13 telecommunication providers for use of public
14 rights-of-way.

15 This bill would specify that rights-of-way
16 fees would be required to be cost-based.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 To amend Section 11-50B-3 of the Code of Alabama
23 1975, relating to municipal telecommunication services; to
24 further provide for fair and reasonable compensation for use
25 of public rights-of-way.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 11-50B-3 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§11-50B-3.

4 "In addition to all other power, rights, and
5 authority heretofore granted by law, public providers may
6 acquire, establish, purchase, construct, maintain, enlarge,
7 extend, lease, improve, and operate cable systems,
8 telecommunications equipment and telecommunications systems,
9 and furnish cable service, interactive computer service,
10 Internet access, other Internet services, and advanced
11 telecommunications service, or any combination thereof, in the
12 case of a public provider that is a municipality, to the
13 inhabitants of the municipality and police jurisdiction, the
14 area within the territorial jurisdiction of the municipal
15 planning commission determined in accordance with the
16 provisions of Section 11-52-30, as amended, and any area in
17 which the municipality furnishes or sells any utility, such as
18 electricity, gas, water, or sewer, and in the case of a public
19 provider that is a municipal instrumentality, to the
20 inhabitants of the municipality in which the municipal
21 instrumentality was organized and the police jurisdiction of
22 this municipality, the area within the territorial
23 jurisdiction of the municipal planning commission of this
24 municipality determined in accordance with the provisions of
25 Section 11-52-30, as amended, and any area in which the
26 municipal instrumentality furnishes or sells any utility, such
27 as electricity, gas, water, or sewer. Nothing contained herein

1 shall authorize any public provider to provide
2 telecommunications service other than advanced
3 telecommunications service. Notwithstanding any other
4 provision of this chapter, however, public providers may, in
5 the case of a public provider that is a municipality, to the
6 inhabitants of the municipality and police jurisdiction, the
7 area within the territorial jurisdiction of the municipal
8 planning commission determined in accordance with the
9 provisions of Section 11-52-30, as amended, and any area in
10 which the municipality furnishes or sells any utility, such as
11 electricity, gas, water, or sewer, and in the case of a public
12 provider that is a municipal instrumentality, to the
13 inhabitants of the municipality in which the municipal
14 instrumentality was organized and the police jurisdiction of
15 this municipality, the area within the territorial
16 jurisdiction of the municipal planning commission of this
17 municipality determined in accordance with the provisions of
18 Section 11-52-30, as amended, and any area in which the
19 municipal instrumentality furnishes or sells any utility, such
20 as electricity, gas, water, or sewer, furnish to the public
21 directly, Internet access, other Internet services, meter
22 reading services, appliance, equipment, or facilities
23 monitoring, alarm monitoring service and other security
24 monitoring, surveillance or monitoring services, and billing
25 and financial services. Any public provider which engages in
26 the installation of alarm systems and any individuals who are
27 employed by the public provider and who engage in the

1 installation of alarm systems for customers of the public
2 provider must comply with the rules and regulations of the
3 Alabama Electronic Security Board of Licensure created
4 pursuant to the provisions of Section 34-1A-2, as amended, to
5 the same extent as a private installer of alarm systems for so
6 long as the same may apply to private installers of alarm
7 systems. In addition, the governing body of any municipality,
8 by ordinance to be entered on its minutes, and any other
9 public provider, by appropriate action of its governing body
10 to be entered on its minutes, also may lease to others any of
11 its cable system and telecommunications equipment not needed
12 for public or municipal purposes and may couple the lease with
13 the provision of cable service, interactive computer service,
14 Internet access, other Internet services, and
15 telecommunications service, or any combination thereof. A
16 lease made, in the case of a municipality, by the mayor in
17 accordance with the ordinance, or in the case of a municipal
18 instrumentality, by the duly authorized officer, officers, or
19 agents of the municipal instrumentality, shall be binding for
20 the term specified in the lease, not to exceed a period of 25
21 years. Any public provider that acquires a cable system,
22 telecommunications equipment, or telecommunications system for
23 purposes of furnishing to others cable service, interactive
24 computer service, Internet access, other Internet services,
25 and telecommunications service, or any combination thereof,
26 shall provide, to any requesting telecommunications carrier or
27 any electric cooperative exercising any power enumerated in

1 Article 2 of Chapter 6, Title 37, as amended, or an affiliate
2 of an electric cooperative, for the provision of a
3 telecommunications service, nondiscriminatory access to any of
4 the public provider's telecommunications equipment not needed
5 for public or municipal purposes or used by the public
6 provider in the provision of telecommunications service to
7 others on an unbundled basis at any technically feasible point
8 on rates, terms, and conditions that are just, reasonable, and
9 nondiscriminatory. A public provider shall make available any
10 of its telecommunications equipment not needed for public or
11 municipal purposes or used by the public provider in the
12 provision of telecommunications service to others on an
13 unbundled basis to requesting telecommunications carriers and
14 electric cooperatives exercising any power enumerated in
15 Article 2 of Chapter 6, Title 37, as amended, or an affiliate
16 of an electric cooperative, upon terms and conditions that are
17 just, reasonable, and nondiscriminatory, provided the electric
18 cooperative or affiliate of an electric cooperative makes
19 available any of its telecommunications equipment not needed
20 for its purposes to the public provider upon terms and
21 conditions that are just, reasonable, and nondiscriminatory.
22 Notwithstanding any other provision of this chapter, every
23 public provider may acquire, establish, purchase, construct,
24 maintain, enlarge, extend, lease, improve, and operate cable
25 systems, telecommunications equipment, and telecommunications
26 systems, and may furnish cable service, interactive computer
27 service, Internet access, other Internet services, and

1 telecommunications service, or any combination thereof, for
2 the use of the public provider, and in the case of a public
3 provider that is a municipality, any department or agency of
4 the municipality, any public corporation, board, or authority
5 that is an agency, department, or instrumentality of the
6 municipality, and any public school located within the
7 corporate limits or police jurisdiction of the municipality;
8 and in the case of a public provider that is a municipal
9 instrumentality, any department or agency of the municipality
10 in which the municipal instrumentality was organized, and any
11 public school located within the corporate limits or police
12 jurisdiction of the municipality in which the municipal
13 instrumentality was organized. Nothing contained in this
14 chapter shall affect the authority of the state or local
15 governmental agencies to manage the public rights-of-way or to
16 require fair and reasonable compensation from
17 telecommunications providers, on a competitively neutral and
18 nondiscriminatory basis, for use of public rights-of-way. For
19 purposes of this section, fair and reasonable compensation
20 from telecommunications providers shall not include in-kind
21 fiber or network build-out requirements, and any right-of-way
22 fees shall be cost-based whether based on a permitting fee, a
23 fee per linear foot, or a percentage of gross revenues
24 originating and terminating in the city limits less wholesale
25 revenues."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.