

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SS/SCS/House Bill No. 1700, Page 22, Section 67.1790, Line 16,

2 by inserting after all of said line the following:

3 "67.1842. 1. In managing the public right-of-way and in
4 imposing fees pursuant to sections 67.1830 to 67.1846, no
5 political subdivision shall:

6 (1) Unlawfully discriminate among public utility
7 right-of-way users;

8 (2) Grant a preference to any public utility right-of-way
9 user;

10 (3) Create or erect any unreasonable requirement for entry
11 to the public right-of-way by public utility right-of-way users;

12 (4) Require a telecommunications company to obtain a
13 franchise or written agreement, other than a permit, or require a
14 public utility right-of-way user to pay for the use of the public
15 right-of-way, except as provided in sections 67.1830 to 67.1846;

16 (5) Enter into a contract or any other agreement for
17 providing for an exclusive use, occupancy or access to any public
18 right-of-way; or

19 (6) Require any public utility that has legally been
20 granted access to the political subdivision's right-of-way to
21 enter into an agreement or obtain a permit for general access to
22 or the right to remain in the right-of-way of the political

1 subdivision.

2 2. A public utility right-of-way user shall not be required
3 to apply for or obtain right-of-way permits for projects
4 commenced prior to August 28, 2001, requiring excavation within
5 the public right-of-way, for which the user has obtained the
6 required consent of the political subdivision, or that are
7 otherwise lawfully occupying or performing work within the public
8 right-of-way. The public utility right-of-way user may be
9 required to obtain right-of-way permits prior to any excavation
10 work performed within the public right-of-way after August 28,
11 2001.

12 3. A political subdivision shall not collect a fee imposed
13 pursuant to section 67.1840 through the provision of in-kind
14 services by a public utility right-of-way user, nor require the
15 provision of in-kind services as a condition of consent to use
16 the political subdivision's public right-of-way; however, nothing
17 in this subsection shall preclude requiring services of a cable
18 television operator, open video system provider or other video
19 programming provider as permitted by federal law.

20 67.1846. 1. Nothing in sections 67.1830 to 67.1846
21 relieves the political subdivision of any obligations under an
22 existing franchise agreement in effect on May 1, 2001. Nothing
23 in sections 67.1830 to 67.1846 will apply to that portion of any
24 ordinance passed prior to May 1, 2001, which establishes a street
25 degradation fee. Nothing in sections 67.1830 to 67.1846 shall be
26 construed as limiting the authority of county highway engineers
27 or relieving public utility right-of-way users from any
28 obligations set forth in chapters 229 to 231. Nothing in
29 sections 67.1830 to 67.1846 shall be deemed to relieve a public

1 utility right-of-way user of the provisions of an existing
2 franchise, franchise fees, license or other agreement or permit
3 in effect on May 1, 2001. Nothing in sections 67.1830 to 67.1846
4 shall prohibit a political subdivision or public utility
5 right-of-way user from renewing or entering into a new or
6 existing franchise, as long as all other public utility
7 right-of-way users have use of the public right-of-way on a
8 nondiscriminatory basis. Nothing in sections 67.1830 to 67.1846
9 shall prevent a grandfathered political subdivision from enacting
10 new ordinances, including amendments of existing ordinances,
11 charging a public utility right-of-way user a fair and reasonable
12 linear foot fee or antenna fee or from enforcing or renewing
13 existing linear foot ordinances for use of the right-of-way,
14 provided that the public utility right-of-way user either:

15 (1) Is entitled under the ordinance to a credit for any
16 amounts paid as business license taxes, payments in lieu of taxes
17 for the purposes of right-of-way acquisition, or gross receipts
18 taxes; or

19 (2) Is not required by the political subdivision to pay the
20 linear foot fee or antenna fee if the public utility right-of-way
21 user is paying gross receipts taxes, business license fees, or
22 business license taxes that are not nominal and that are imposed
23 specifically on communications-related revenue, services, or
24 equipment.

25
26 For purposes of this section, a "grandfathered political
27 subdivision" is any political subdivision which has, prior to May
28 1, 2001, enacted one or more ordinances reflecting a policy of
29 imposing any linear foot fees on any public utility right-of-way

1 user, including ordinances which were specific to particular
2 public right-of-way users. Any existing ordinance or new
3 ordinance passed by a grandfathered political subdivision
4 providing for payment of the greater of a linear foot fee or a
5 gross receipts tax shall be enforceable only with respect to the
6 linear foot fee.

7 2. Nothing in sections 67.1830 to 67.1846 shall prohibit a
8 political subdivision from enacting, renewing or enforcing
9 provisions of an ordinance to require a business license tax,
10 sales tax, occupation tax, franchise tax or franchise fee,
11 property tax or other similar tax, to the extent consistent with
12 federal law. Nothing in sections 67.1830 to 67.1846 shall
13 prohibit a political subdivision from enacting, enforcing or
14 renewing provisions of an ordinance to require a gross receipts
15 tax pursuant to chapter 66, chapter 92, or chapter 94. For
16 purposes of this subsection, the term "franchise fee" shall mean
17 "franchise tax."; and

18 Further amend said bill, page 27, section 67.2689, lines 13-
19 28 of said page, by striking all of said lines and inserting in
20 lieu thereof the following:

21 "2. Beginning August 28, 2023, franchise entities are
22 prohibited from collecting a video service provider fee in excess
23 of five percent of the gross revenues specified in subsection 1
24 of this section. Beginning August 28, 2024, franchise entities
25 are prohibited from collecting a video service provider fee in
26 excess of four and one-half percent of such gross revenues.
27 Beginning August 28, 2025, franchise entities are prohibited from
28 collecting a video service provider fee in excess of four percent
29 of such gross revenues. Beginning August 28, 2026, franchise

1 entities are prohibited from collecting a video service provider
2 fee in excess of three and one-half percent of such gross
3 revenues. Beginning August 28, 2027, franchise entities are
4 prohibited from collecting a video service provider fee in excess
5 of three percent of such gross revenues. Beginning August 28,
6 2028, and continuing thereafter, franchise entities are
7 prohibited from collecting a video service provider fee in excess
8 of two and one-half percent of such gross revenues."; and

9 Further amend said bill and section, page 29, line 12 of
10 said page, by striking the word "may" and inserting in lieu
11 thereof the following: "shall"; and

12 Further amend said bill, page 30, section 67.2720, line 3,
13 by striking "and"; and further amend line 6 by inserting
14 immediately after "representatives" the following: ";

- 15 (7) A member of the municipal league of metro St. Louis; and
16 (8) A member of the Missouri municipal league"; and

17 Further amend the title and enacting clause accordingly.