

SENATE BILL 1508

By Burchett

AN ACT to amend Tennessee Code Annotated, Title 65,  
relative to municipally or cooperatively owned  
utility or telephone poles.

WHEREAS, Tennessee currently has no laws affecting the best practices and conditions for the use of the poles owned by municipal electric systems and rural electric cooperatives; and

WHEREAS, federal law provides for owners of investor-owned utility poles to charge cost-based fees for attachment to poles; and

WHEREAS, Tennessee, with one exception, currently has no investor-owned utilities; and

WHEREAS, under current practices, municipal electric systems and rural electric cooperatives pole owners charge fees that far exceed costs which, thereby are, tantamount to a privilege tax; and

WHEREAS, the general assembly finds and declares that all users of poles owned by municipal electric systems and rural electric cooperatives are entitled to fair access to such poles; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 65-32-105, is amended by deleting the section in its entirety and by substituting instead the following:

Section 65-21-105.

(a)

(1) All municipally owned utilities operated pursuant to § 7-52-103, or any other public or private act, and all rural cooperatively-owned utilities doing business pursuant to the authority of title 65, chapter 25 or title 48, chapter 53,

shall allow telecommunications service providers, as defined by title 65, chapter 4, part 1, and cable operators, as defined in § 602 (5) of the Federal Cable Policy Act of 1984, to make pole attachments, as defined by 47 U.S.C. § 224(a)(4), at just, reasonable and non-discriminatory rates, based on actual cost, pursuant to the terms and conditions of negotiated or arbitrated agreements. "Actual cost" means the amount of money actually paid for property or services. The Tennessee regulatory authority shall adopt and implement a formula similar to the federal pole formula for investor-owned utilities adopted and implemented by the federal communications commission. This pole formula shall set a maximum allowable pole rate, which shall be based on actual cost.

(2) Any party negotiating an agreement under this section may, at any point in the negotiation, request the Tennessee regulatory authority to participate in the negotiation and to arbitrate any differences arising in the course of the negotiation. The requesting party shall pay a fee of five hundred dollars (\$500) to the Tennessee regulatory authority.

(3) At any time, upon its own complaint or the complaint of any interested party, the Tennessee regulatory authority shall have the authority and jurisdiction, after notice and a hearing, to enforce the provisions of this section by appropriate order or rule, and shall have the authority to levy fines.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of the act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.