

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 24, Page 4, Section 67.1020, Line 4, by
2 inserting after all of said Section and Line the following:

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4 "67.5104. Any pole attachment fees, terms, and conditions, including those related to the granting or
5 denial of access, demanded by a municipal utility pole owner or controlling authority of a
6 municipality shall be nondiscriminatory, just and reasonable and shall not be subject to any required
7 franchise authority or government entity permitting, except as provided in this section. A pole
8 attachment rental fee shall be calculated on an annual, per pole basis. Such rental fee shall be
9 considered just and reasonable if it is agreed upon by the parties or, in the absence of such
10 agreement, based on cost but in no such case shall a fee so calculated be less than the fee which
11 would apply if it were calculated in accordance with the cable rate formula referenced in 47 U.S.C.
12 Section 224(d) as applied by the Federal Communications Commission. As used in this section,
13 "pole attachment" means an attachment by a video service provider, or by a telecommunications or
14 other communications-related service provider or municipal utility pole owner, to a pole. Either
15 party may seek review of any fee, term, or condition by means of binding arbitration conducted by a
16 single arbitrator mutually agreeable to the parties or, in the absence of such agreement, by means of
17 binding arbitration conducted by the American Arbitration Association. An arbitrator's award
18 regarding fees shall be confined to the direct and shared costs caused by the pole attachment and may
19 exceed the cable rate formula referenced in this section only if based on an express written finding
20 stated in the award that such award is based on clear and convincing evidence that the cable rate
21 formula does not sufficiently cover the direct and shared costs caused by the pole attachment.
22 Pending the arbitrator's rendering of such an award, the last existent rental fee applicable to the pole
23 attachment shall remain in place and shall be binding upon both parties. If any dispute between a
24 municipal utility pole owner and an attaching utility is limited to the compensation associated with
25 the attachment, then the attachment may proceed during the pendency of the arbitration."; and
26

27 Further amend said bill by amending the title, enacting clause, and intersectional references
28 accordingly.

Action Taken _____ Date _____