
HOUSE BILL 1710

State of Washington

57th Legislature

2001 Regular Session

By Representatives Mielke, Mulliken, Schoesler, Armstrong, Pennington, Dunn, Boldt and Campbell

Read first time 02/01/2001. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to franchise fees imposed upon solid waste
2 businesses and services; amending RCW 35.21.860; and adding a new
3 section to chapter 36.58 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 35.21.860 and 2000 c 83 s 8 are each amended to read
6 as follows:

7 (1) No city or town may impose a franchise fee or any other fee or
8 charge of whatever nature or description upon the light and power, or
9 gas distribution businesses, as defined in RCW 82.16.010, or telephone
10 business, as defined in RCW 82.04.065, or service provider for use of
11 the right of way, except:

12 (a) A tax authorized by RCW 35.21.865 may be imposed;

13 (b) A fee may be charged to such businesses or service providers
14 that recovers actual administrative expenses incurred by a city or town
15 that are directly related to receiving and approving a permit, license,
16 and franchise, to inspecting plans and construction, or to the
17 preparation of a detailed statement pursuant to chapter 43.21C RCW;

18 (c) Taxes permitted by state law on service providers;

1 (d) Franchise requirements and fees for cable television services
2 as allowed by federal law; and

3 (e) A site-specific charge pursuant to an agreement between the
4 city or town and a service provider of personal wireless services
5 acceptable to the parties for:

6 (i) The placement of new structures in the right of way regardless
7 of height, unless the new structure is the result of a mandated
8 relocation in which case no charge will be imposed if the previous
9 location was not charged;

10 (ii) The placement of replacement structures when the replacement
11 is necessary for the installation or attachment of wireless facilities,
12 and the overall height of the replacement structure and the wireless
13 facility is more than sixty feet; or

14 (iii) The placement of personal wireless facilities on structures
15 owned by the city or town located in the right of way. However, a
16 site-specific charge shall not apply to the placement of personal
17 wireless facilities on existing structures, unless the structure is
18 owned by the city or town.

19 A city or town is not required to approve the use permit for the
20 placement of a facility for personal wireless services that meets one
21 of the criteria in this subsection absent such an agreement. If the
22 parties are unable to agree on the amount of the charge, the service
23 provider may submit the amount of the charge to binding arbitration by
24 serving notice on the city or town. Within thirty days of receipt of
25 the initial notice, each party shall furnish a list of acceptable
26 arbitrators. The parties shall select an arbitrator; failing to agree
27 on an arbitrator, each party shall select one arbitrator and the two
28 arbitrators shall select a third arbitrator for an arbitration panel.
29 The arbitrator or arbitrators shall determine the charge based on
30 comparable siting agreements involving public land and rights of way.
31 The arbitrator or arbitrators shall not decide any other disputed
32 issues, including but not limited to size, location, and zoning
33 requirements. Costs of the arbitration, including compensation for the
34 arbitrator's services, must be borne equally by the parties
35 participating in the arbitration and each party shall bear its own
36 costs and expenses, including legal fees and witness expenses, in
37 connection with the arbitration proceeding.

38 (2) Subsection (1) of this section does not prohibit franchise fees
39 imposed on an electrical energy, natural gas, or telephone business, by

1 contract existing on April 20, 1982, with a city or town, for the
2 duration of the contract, but the franchise fees shall be considered
3 taxes for the purposes of the limitations established in RCW 35.21.865
4 and 35.21.870 to the extent the fees exceed the costs allowable under
5 subsection (1) of this section.

6 (3) Any franchise fee imposed upon solid waste collection or
7 transportation businesses or services shall be limited to the amount
8 necessary to recover actual administrative expenses incurred by a city
9 or town that are directly related to receiving and approving a permit,
10 contract, license, and franchise to a solid waste collection or
11 transportation business or service, to inspecting plans and
12 construction, or to the preparation of a detailed statement pursuant to
13 chapter 43.21C RCW.

14 NEW SECTION. Sec. 2. A new section is added to chapter 36.58 RCW
15 to read as follows:

16 Any franchise fee imposed upon solid waste collection or
17 transportation businesses or services shall be limited to the amount
18 necessary to recover actual administrative expenses incurred by a
19 county that are directly related to receiving and approving a permit,
20 contract, license, and franchise to a solid waste collection or
21 transportation business or service, to inspecting plans and
22 construction, or to the preparation of a detailed statement pursuant to
23 chapter 43.21C RCW.

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