

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  
5 granting or 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 an  
10 agreement, based on cost but in no such case shall such rate so calculated be greater than the rate  
11 which would apply if it were calculated in accordance with the cable rate formula referenced in 47  
12 U.S.C. Section 224(d) as applied by the Federal Communications Commission. As used in this  
13 section, "pole attachment" means an attachment by a video service provider, or by a  
14 telecommunications or other communications-related service provider or municipal utility pole  
15 owner, but not an attachment by a wireless communications provider, to a pole. Either party may  
16 seek review of any fee, term, or condition by means of binding arbitration conducted by a single  
17 arbitrator mutually agreeable to the parties or, in the absence of such an agreement, by means of  
18 binding arbitration conducted by the American Arbitration Association. An arbitrator's award  
19 regarding fees shall be confined to ensuring that the utility pole owner recovers the direct costs and  
20 an appropriate share of the fully allocated costs of the pole attachment and that the rate may exceed  
21 the cable rate formula referenced in this section only if based on an express written finding stated in  
22 the award that such award is based on clear and convincing evidence that the cable rate formula and  
23 other payments made by the service provider do not sufficiently recover the direct costs and an  
24 appropriate share of the fully allocated costs of the pole attachment. Pending the arbitrator's  
25 rendering of such an award, the last existent rental fee applicable to the pole attachment shall remain  
26 in place and binding upon both parties. The attachment may proceed during the pendency of the  
27 arbitration."; and

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

Action Taken \_\_\_\_\_ Date \_\_\_\_\_