

SECOND REGULAR SESSION

# HOUSE BILL NO. 1083

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES RECTOR (Sponsor), WILLOUGHBY, BYRD, EMERY,  
LeVOTA, WILSON (130), SCHLOTTACH AND ANGST (Co-sponsors).

Read 1<sup>st</sup> time January 14, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3412L.011

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### AN ACT

To repeal section 67.1846, RSMo, and to enact in lieu thereof one new section relating to credit for franchise fees.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 67.1846, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.1846, to read as follows:

67.1846. 1. Nothing in sections 67.1830 to 67.1846 relieves the political subdivision of any obligations under an existing franchise agreement in effect on May 1, 2001. Nothing in sections 67.1830 to 67.1846 will apply to that portion of any ordinance passed prior to May 1, 2001, which establishes a street degradation fee. Nothing in sections 67.1830 to 67.1846 shall be construed as limiting the authority of county highway engineers or relieving public utility right-of-way users from any obligations set forth in chapters 229 to 231, RSMo. Nothing in sections 67.1830 to 67.1846 shall be deemed to relieve a public utility right-of-way user of the provisions of an existing franchise, franchise fees, license or other agreement or permit in effect on May 1, 2001. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision or public utility right-of-way user from renewing or entering into a new or existing franchise, as long as all other public utility right-of-way users have use of the public right-of-way on a nondiscriminatory basis. Nothing in sections 67.1830 to 67.1846 shall prevent a grandfathered political subdivision from enacting new ordinances, including amendments of existing ordinances, charging a public utility right-of-way user a fair and reasonable linear foot fee or antenna fee or from enforcing or renewing existing linear foot ordinances for use of the right-of-way, provided that the public utility right-of-way user either:

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

17 (1) Is entitled under the ordinance to a credit for any amounts paid as business license  
18 taxes [or], gross receipts taxes, **or franchise fees**; or

19 (2) Is not required by the political subdivision to pay the linear foot fee if the public  
20 utility right-of-way user is paying gross receipts taxes.

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22 For purposes of this section, a "grandfathered political subdivision" is any political subdivision  
23 which has, prior to May 1, 2001, enacted one or more ordinances reflecting a policy of imposing  
24 any linear foot fees on any public utility right-of-way user, including ordinances which were  
25 specific to particular public right-of-way users. Any existing ordinance or new ordinance passed  
26 by a grandfathered political subdivision providing for payment of the greater of a linear foot fee  
27 or a gross receipts fee shall be enforceable only with respect to the linear foot fee.

28 2. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision from  
29 enacting, renewing or enforcing provisions of an ordinance to require a business license tax, sales  
30 tax, occupation tax, franchise tax or franchise fee, property tax or other similar tax, to the extent  
31 consistent with federal law. Nothing in sections 67.1830 to 67.1846 shall prohibit a political  
32 subdivision from enacting, enforcing or renewing provisions of an ordinance to require a gross  
33 receipts tax pursuant to chapter 66, chapter 92, or chapter 94, RSMo. For purposes of this  
34 subsection, the term "franchise fee" shall mean "franchise tax".