

HB 1361 -- Utilities

Sponsor: Pollock

This bill allows telecommunications companies or rural electrical cooperatives to attach, maintain, and operate their equipment on another's pole under specified terms and conditions. Currently, pole attachment rules are enforced by the Federal Communications Commission (FCC). No attachment can be made without a written agreement between the pole owner and the attaching entity. The provisions of the bill must be interpreted in a manner consistent with FCC rules for pole and conduit attachments unless otherwise specified.

The attaching party must give notice to a pole owner of the intent to attach and the specific location of the attachment, and the owner, unless otherwise agreed, must respond within 15 days with specified exceptions. If proper notice is not given, the parties may determine a penalty or, if the parties cannot agree on a reasonable penalty, it must equal 25% of the pole rate for a maximum period of 12 months. The attaching entity must pay for any damages and modification costs incurred by the pole owner to facilitate attachments, and the continued reliability and safety of the pole owner's system must have priority over the attachments.

A pole owner must be entitled to a reasonable rate for permitting attachments that may be specified by contract, but the rate must not exceed reasonable costs to the pole owner's system as calculated in a manner similar to the FCC rules for pole and conduit attachments. Additional costs may be charged upon a showing of inefficiencies in its maintenance of its system caused by attachments. An existing contract must remain in full force for its full term. The bill specifies cost limitations for new contracts which may be enforced in circuit court, and also allows the use of non-binding mediation to resolve rate disputes. A pole owner may collect interest and penalties on the amount determined to be owed to him or her in court but must give 45 days' notice prior to filing a collection action.

A pole owner may allow an attachment under the scope of its existing property easement with the property owner if the attachment does not unreasonably burden the property owner or cause a diminution in value to the property owner's property. A property owner retains the right to file suit for diminution in value, lack of use of property, and physical damages to property caused by the use and installation of poles and attachments. However, evidence of revenues or profits derived by telecommunication providers or rural electrical cooperatives from providing these services is not admissible in any proceeding by

the property owner to recover damages.