

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 515

An Act to amend and reenact §§ 56-458 and 56-462 of the Code of Virginia, relating to payments for the use of rights-of-way.

[H 2915]

Approved March 18, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-458 and 56-462 of the Code of Virginia are amended and reenacted as follows:

§ 56-458. Right to erect lines parallel to railroads; occupation of roads, streets, etc.; location of same.

A. Every telegraph company and every telephone company incorporated by this or any other state, or by the United States, may construct, maintain and operate its line along and parallel to any of the railroads of the Commonwealth, and shall have authority to occupy and use the public parks, roads, works, turnpikes, streets, avenues and alleys in any of the counties, with the consent of the board of supervisors or other governing authority thereof, or in any incorporated city or town, with the consent of the council thereof, and the waterways within this Commonwealth, for the erection of poles and wires, or cables, or the laying of underground conduits, portions of which they may lease, rent, or hire to other like companies; provided, however, that if the road or street be in the State Highway System or the secondary system of state highways, the consent of the board of supervisors or other governing authority of any county shall not be necessary, but a permit for such occupation and use shall first be obtained from the Commonwealth Transportation Board.

B. *Notwithstanding any other provision of law, any and all fees, including but not limited to franchise, permit and inspection fees, charged by (i) a county, city or town in connection with a franchise, lease or right to use any public right-of-way or easement which is a part of or adjacent to any road, highway, bridge, turnpike, street, avenue or alley or (ii) the Commonwealth Transportation Board in connection with a permit for such occupation and use shall not exceed the amount or rate charged pursuant to, or any in-kind services or physical assets provided by, ordinances, permits, agreements or franchises in effect as of February 1, 1997. Except as otherwise provided herein, no county, city or town or the Commonwealth Transportation Board shall require the provision of in-kind services or physical assets as a condition of consent to a franchise to use public property or a lease or right to use any public right-of-way or easement which is a part of or adjacent to any road, highway, bridge, turnpike, street, avenue or alley, or in lieu of any fees. Except for facilities currently in place, nothing herein shall affect any longitudinal installations in rights-of-way on limited access highways.*

§ 56-462. Franchise to occupy parks, streets, etc.; imposition of terms, conditions, etc., as to use of streets, etc., and construction thereon.

A. No incorporated city or town shall grant to any such telegraph or telephone corporation the right to erect its poles, wires, or cables, or to lay its conduits upon or beneath its parks, streets, avenues, or alleys until such company shall have first obtained, in the manner prescribed by the laws of this Commonwealth, the franchise to occupy the same. Notwithstanding the provisions of this chapter the corporate authorities of any city or town may impose upon any such corporation any terms and conditions inconsistent herewith or supplemental hereto, as to the occupation and use of its parks, streets, avenues, and alleys, and as to the construction and use of its parks, streets, avenues, and alleys, and as to the construction and maintenance of the works of such company along, over, or under the same, the corporate authorities may deem expedient and proper, and the Commonwealth Transportation Board may impose upon any such company any terms, rules, regulations, requirements, restrictions and conditions inconsistent herewith or supplemental hereto, as to the occupation and use of roads and streets in either state highway system, and as to the construction, operation or maintenance of the works along, over, or under the same, which the Board may deem expedient and proper, but not in conflict, in incorporated cities and towns, with any vested contractual rights of any such company with such city or town.

B. *Notwithstanding the provisions of subsection A hereof or any other provision of law, any and all fees, including but not limited to franchise, permit and inspection fees, charged by (i) a city or town in connection with a franchise, lease or right to use any public right-of-way or easement which is a part of or adjacent to any road, highway, bridge, turnpike, street, avenue or alley or (ii) the Commonwealth Transportation Board in connection with a permit for such occupation and use shall not exceed the amount or rate charged pursuant to, or any in-kind services or physical assets provided by, ordinances, permits, agreements or franchises in effect as of February 1, 1997. Except as otherwise provided herein, no city or town or the Commonwealth Transportation Board shall require the provision of in-kind services or physical assets as a condition of consent to a franchise to use public property or a lease or right to use any public right-of-way or easement which is a part of or adjacent to any road, highway,*

bridge, turnpike, street, avenue or alley, or in lieu of any fees. Except for facilities currently in place, nothing herein shall affect any longitudinal installations in rights-of-way on limited access highways.

2. That the provisions of this act shall expire on July 1, 1998.

3. That an emergency exists and this act is in force from its passage.