

RESOLUTION OF THE CITY COUNCIL

No. 288

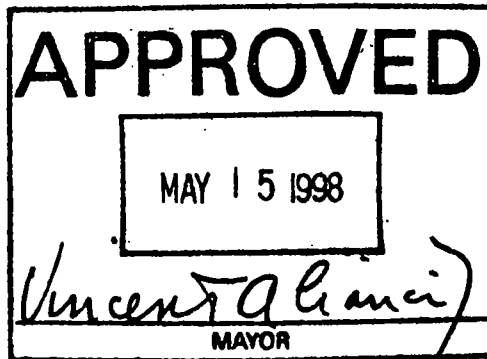
Approved May 15, 1998

RECEIVED
CITY OF PROVIDENCE
MAY 15 1998

RESOLVED, That the City Council hereby endorses and urges passage by the General Assembly of House Bill 98-H 7190 relating to Cities and Towns -Franchises, in substantially the form attached.

IN CITY COUNCIL
MAY 7 1998
READ AND PASSED

Paul V. Fargnoli
PRES.
Michael L. Clement
CLERK



IN CITY COUNCIL
MAR 19 1998
FIRST READING
REFERRED TO COMMITTEE ON
STATE LEGISLATION

Michael R. Clement CLERK
BS

THE COMMITTEE ON

State Legislation
Recommends *Passage*
Brian A. Carver
Clerk

4/28/98

Council President Jargale (By request)

LC00091

STATE OF RHODE ISLAND
IN GENERAL ASSEMBLY **98-H 7190**
JANUARY SESSION, A.D. 1998

A N A C T

RELATING TO CITIES AND TOWNS -- FRANCHISES

98-H 7190

Introduced By: Rep. John Barr, II

Date Introduced: January 8, 1998

Referred To: Committee on Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-17-1, 39-17-2, 39-17-3 39-17-4, 39-17-5 and 39-17-6 of the
2 General Laws in Chapter 39-17 entitled "Franchises" are hereby amended to read as follows:

3 39-17-1. Power of town or city to grant franchises. -- Any town or city, by vote of the
4 town council or city council, may pass ordinances or make contracts to be executed by its proper
5 officers, granting rights and franchises in, ~~over, or under the streets and highways along the~~
6 streets and public rights-of-way in the town or city to any natural person(s), partnerships,
7 domestic and foreign corporations, associations, joint ventures or organization, corporations, as
8 are ~~is~~ provided for in section 39-17-2, and for the purposes and upon the condition specified in
9 this chapter.

10 ~~39-17-2. Purposes for which permitted -- Duration -- Protection of existing~~
11 ~~businesses -- Landowner's rights~~ Purposes for which permitted -- Duration -- Landowner's
12 rights. -- Any grants, whether by ordinance or by contract, may confer upon any ~~corporation~~
13 ~~created by the general assembly~~ natural person(s), partnerships, domestic and foreign
14 corporations, associations, joint ventures, or organizations for the purpose of distributing water,
15 or for the purpose of producing, selling, and distributing currents of electricity to be used for
16 light, heat, or motive power, or for the purpose of manufacturing, selling, and distributing
17 illuminating or heating gas, or for the purpose of operating street railways by any motive power,
18 or for the purpose of ~~operating telephones, the exclusive right,~~ providing the communication

1 ~~services~~ for a time not exceeding twenty-five (25) years, ~~such grants may confer the right to~~
2 erect, lay, construct, and maintain ~~for the purposes for which the corporation is created,~~ poles,
3 wires, pipes, conduits, rails, or cables, with necessary and convenient appurtenances as may be
4 required for the conduct of the business of the ~~associations, joint ventures, or organization,~~
5 ~~natural person(s), partnerships, domestic and foreign corporation, along with the streets and~~
6 ~~public rights-of-way, corporation, in, over or under the streets of the town or city; provided,~~
7 ~~however, that no grant of exclusive rights or franchises for any of the purposes described in this~~
8 ~~section shall be made by any city or town wherein, at the time a corporation created for the same~~
9 ~~purpose, or a person duly authorized by law to use the streets for such purpose, shall be in actual~~
10 ~~use and enjoyment of the rights, except to the corporation or person already carrying on business~~
11 ~~in the city or town; and provided, further, that whenever in any city or town more than one~~
12 ~~corporation shall at the time be in actual use and enjoyment of portions of the streets and~~
13 ~~highways for any of the purposes described in this section, no exclusive right or franchise shall~~
14 ~~be granted to either without the consent of the other; and provided, further, that no grant shall~~
15 prevent any town or city from ~~axes~~ permitting any person or corporation to use streets or
16 highways for any of the purposes described in this section in order to connect and serve any two
17 (2) or more estates owned by the person or corporation.

18 **39-17-3. Franchise tax payable to city or town**~~Franchise fee payable to city or town.~~

19 -- Every ~~corporation~~ entity which shall accept exclusive rights or franchises granted by ordinance
20 or contract under the provisions of this chapter, shall make and render to the treasurer of the
21 town or city granting the same, on or before the thirtieth day of January, April, July, and October
22 in every year, returns, verified by the oath of its president or treasurer, of ~~the its~~ gross ~~earnings of~~
23 ~~the corporation~~ revenue within the town or city for the period of three (3) months next preceding
24 the first day of January, April, July, and October in the same year, and shall at the time pay to the
25 town or city treasurer, in full payment for the rights and franchises granted under this chapter, a
26 ~~special tax upon the gross earnings~~ a fee for said rights of franchises at a rate not ~~exceeding to~~
27 ~~exceed~~ three percent (3%) upon the gross ~~earnings~~ revenues of the ~~corporation~~ entity within the
28 town or city in that year.

29 **39-17-4. Apportionment of gross earnings among cities and towns.** -- In case any
30 ~~corporation~~ entity shall do business in more than one town or city, and it shall be unable to
31 ascertain the amount of its gross earnings in each town or city separately from actual accounts
32 kept thereof, its returns of gross earnings to be made as provided in section 39-17-3 shall state

1 the gross earnings of its entire business and the length of its wires, pipes, mains, or tracks in the
2 streets and highways of each town or city, and the gross earnings from its business in the town or
3 city shall be taken to be that proportion of the whole gross earnings which the length of its wires,
4 pipes, mains, or tracks in the streets and highways of the city or town bears to the total length of
5 all its wires, pipes, mains, or tracks in streets and highways.

6 **39-17-5. Delinquencies in franchise tax.** -- In case any ~~corporation~~ entity shall neglect
7 to make payment of the quarterly ~~tax~~ fee as provided in section 39-17-3, the town or city
8 treasurer may collect and recover of the ~~corporation~~ entity, as other ~~taxes~~ fees are collectible,
9 ~~double the amount of the special tax shown to be due by the last preceding quarterly return of the~~
10 ~~corporation.~~

11 **39-17-6. Rate increases during term of franchise.** -- No ~~corporation~~ entity which shall
12 acquire ~~exclusive~~ rights or franchises under the provisions of this chapter, shall at any time
13 during the continuance thereof charge for its product, wares, or service, to any town or city or the
14 inhabitants thereof, any greater price than the price actually charged by it at the time of the
15 granting of the rights or franchises, both prices being reckoned in United States gold coin of the
16 standard weight and fineness in force at the time of the granting of the right or franchise, or in
17 the equivalent thereof in actual value in other lawful money of the United States.

18 SECTION 2. Chapter 39-17 of the General Laws entitled "Franchises" is hereby
19 amended by adding thereto the following section:

20 **39-17-8. Definitions.** -- As used in this chapter, the following words and terms
21 shall have the following meanings:

22 (1) "Public rights-of-way" shall mean the surface, the air space above the surface, and
23 the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard,
24 drive, bridge, tunnel, park, parkway, waterway, easement, leasehold interest, or similar property
25 withint a local community.

26 (2) "Franchise" shall mean authorization for a private party by a city or town to use and
27 occupy the public rights-of-way. A franchise granted pursuant to this chapter grants the
28 nonexclusive right to construct, operate, erect, lay and maintain, poles, wires pipes, conduits,
29 rails or cables as may be required for the conduct of the business of the private party.

30 (3) "Franchise fee" shall mean a rental fee based on the percentage, not to exceed the
31 limitations of this chapter, of the franchisee's annual gross revenue derived within a city or town
32 in that year which is payable in exchange for the rights granted pursuant to this chapter.

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1 (4) "Gross revenues" shall mean any and all cash, credits, property or any other
2 consideration of any kind or nature received directly or indirectly by a fanchise, its affiliates, or
3 any entity in which such fanchise has a financial interest, arising from, attributable to, or in any
4 way derived from the operation of such franchisee's business within such city or town.

5 SECTION 3. This act shall take effect upon passage.

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LC00091
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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO CITIES AND TOWNS -- FRANCHISES

1 This act would make technical changes to the law which allows cities and towns to
2 charge utilities a fee for the use of roads and other public rights-of-way to install the facilities
3 needed to provide utility services.

4 This act would take effect upon passage.