

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office

April 7, 1999

LB 496

on committee amendments. (Standing Committee amendment AM0826 is found on page 1153 of the Legislative Journal.)

SENATOR BROMM: Thank you very much, Madam President. LB 496 came to the Transportation Committee and it would certainly be fair to say that it was relatively controversial. We had about as many opponents testify as proponents. As you can see from the committee statement, we had some cable and telephone people as proponents, and primarily city folks who were registered as opponents. Following the public hearing and after we had a chance to kind of identify the primary controversial points of the bill, and those seem to be how right-of-way compensation to a city should be structured. Whether it should be related to the direct costs to the city or whether it should be based on some other factors as determined by the city was a big issue. The methodology of determining the value of the right-of-way came into play in that respect. And then, if you go to a direct cost issue, the burden of proof on who should determine what the direct costs are was another significant question. I...in the committee work we called in representatives of the various sides and attempted to reach compromises and the committee amendment represents a compromise to the extent that we could achieve a compromise. We were able to get some language put together in the committee amendment that I don't think either the cities or the telephone companies have a great deal of problem with. It doesn't mean that there aren't still areas of disagreement, it would be unfair to say that there aren't, but let me...let me tick off the primary elements of the committee amendment and try to explain those. We added a new subsection (2) to 86-801 (sic--86-301), which is a statute that's mentioned in 496 which preserves the right of the municipalities to give permission to telecommunications companies with respect to the construction of physical facilities on the roads, streets, or public highways. On the other hand, a second clause in that section limits the power of the municipality to regulate the delivery of telecommunication services, which power is reserved to the Public Service Commission and the Federal Communications Commission. Let me say that again. We are preserving the right of municipalities to regulate the construction of physical facilities in the right-of-way, but we are specifically limiting their power to regulate the delivery of telecommunication services as being beyond the scope of their power. The exercise