HCS HB 656 -- UNIFORM WIRELESS COMMUNICATION

SPONSOR: Rhoads

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Utilities by a vote of 7 to 6. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 9 to 4.

This bill eliminates permitting requirements for towers or other associated wireless communication structures from any political subdivision's rightful powers when "managing the right-of-way." The bill also provides that grandfathered political subdivisions may not enact new antenna fees.

This bill also adds the definitions for "communications facility," "micro wireless facility," "small wireless facility," "wireless communications infrastructure provider," and "wireline backhaul services" to the Uniform Wireless Communication Infrastructure Deployment Act, while eliminating the definition for "base station." The definition of "utility pole" is also amended to include poles used for wireless communications services, and to provide that collocation of wireless communications services may occur on utility poles.

The bill further provides that authorities may not require applications for routine maintenance on previously permitted small wireless facility collocations, the replacement of small wireless facilities with substantially smaller ones, or for the installation, maintenance, and replacement of micro wireless facilities that are suspended on cables.

Authorities shall process applications for small wireless facilities on a nondiscriminatory basis, and an application may include up to 25 separate small wireless facilities. The rejection of one individual small wireless facility shall not be the basis for denial of the application as a whole. Authorities shall not require a preexisting wireless facility on an existing structure before a small wireless facility or micro wireless facility may be installed upon said structure.

Authorities shall accept applications for new small wireless facility collocations on wireless support structures not located within public right-of-ways, and shall evaluate applications on a nondiscriminatory basis. After approval, applicants may maintain a small wireless facility collocation for 10 years, with an optional extension of three five-year terms.

Authorities shall not issue any moratoriums, either direct or

implicitly, on small wireless facilities. However, authorities may require reasonable aesthetic alterations to small wireless, and no approval for the installation, maintenance, or operation of a small wireless facility shall be construed to confer any permission related to the installation and operation of wireline backhaul service or communications facilities within the public right-of-way.

Applicants may install replacement or modified utility poles or other support structures in the public right-of-way for small wireless facilities except for areas zoned as historic or single-family residential.

Authorities may not charge any fee, tax, or other charge on small wireless facilities that collocate on property not owned by the authority in question. Rates and fees may only be applied as provided by the Uniform Wireless Communication Infrastructure Deployment Act and the associated statute on right-of-way permit fees, but such rates shall be competitively neutral and not be in the form of a franchise fee or tax. Except as provided by state law, no authority or other political subdivision shall adopt or enforce any regulation on the installation and operation of wireless facilities in public right-of-ways where such facilities are already authorized by a grant of power other than the Uniform Wireless Communication Infrastructure Deployment Act.

Communication infrastructure providers and wireless communications service providers may collocate small wireless facilities on municipal utility poles within public roads or right-of-ways without entering into any license or franchise, but such installation may be subject to reasonable and competitively neutral terms set forth in a pole attachment agreement provided that the agreement complies with federal law.

Within the later of six months after August 28, 2017 or three months after receiving a request from a wireless communications service provider or communications service provider, every municipality shall adopt a standard pole attachment agreement. Every agreement shall be considered a public record, and sufficiently comprehensive so that any wireless communications service provider or communications service provider may accept it without negotiation.

Authorities may charge an annual recurring rate for collocation on authority owned utility poles, but such rate shall not exceed the Federal Communication Commission's formula for cable service pole attachments. The repayment costs for work necessary to prepare authority utility poles for small wireless facility collocation is also limited.

PROPONENTS: Supporters say that this bill would enable wireless providers to make the necessary infrastructure improvements to alleviate data traffic on macro-towers, and to provide better service to all Missouri customers.

Testifying for the bill were Representative Rhoads; Ken Schifman, Sprint Corporation; and Joseph Ruggiero, Verizon.

OPPONENTS: Those who oppose the bill say that the bill presents unnecessary risks to cities, and threatens the preservation of public right-of-ways for the enrichment of private ventures.

Testifying against the bill were Ryan Moehlman, City of Jefferson; Missouri Municipal League; Chuck Bryant, Carthage Water & Electric Plant; Zachary Johnson, City of Cameron; Tim Grenke, City of Centralia; Darrell Dunlap, City of Fulton; City Utilities of Springfield, Missouri; Missouri Association of Municipal Utilities; and Independence Power & Light.