

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1991
99TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, April 5, 2018, with
recommendation that the Senate Committee Substitute do pass.

5710S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 67.1830 and 67.1846, RSMo, and to enact in lieu thereof fourteen
new sections relating to the deployment of utilities infrastructure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 67.1830 and 67.1846, RSMo, are repealed and fourteen
2 new sections enacted in lieu thereof, to be known as sections 67.1830, 67.1846,
3 67.5110, 67.5111, 67.5112, 67.5113, 67.5114, 67.5115, 67.5116, 67.5117, 67.5118,
4 67.5119, 67.5120, and 67.5121, to read as follows:

67.1830. As used in sections 67.1830 to 67.1846, the following terms shall
2 mean:

3 (1) "Abandoned equipment or facilities", any equipment materials,
4 apparatuses, devices or facilities that are:

5 (a) Declared abandoned by the owner of such equipment or facilities;

6 (b) No longer in active use, physically disconnected from a portion of the
7 operating facility or any other facility that is in use or in service, and no longer
8 capable of being used for the same or similar purpose for which the equipment,
9 apparatuses or facilities were installed; or

10 (c) No longer in active use and the owner of such equipment or facilities
11 fails to respond within thirty days to a written notice sent by a political
12 subdivision;

13 (2) "Degradation", the actual or deemed reduction in the useful life of the
14 public right-of-way resulting from the cutting, excavation or restoration of the
15 public right-of-way;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is
intended to be omitted in the law.**

16 (3) "Emergency", includes but is not limited to the following:

17 (a) An unexpected or unplanned outage, cut, rupture, leak or any other
18 failure of a public utility facility that prevents or significantly jeopardizes the
19 ability of a public utility to provide service to customers;

20 (b) An unexpected or unplanned outage, cut, rupture, leak or any other
21 failure of a public utility facility that results or could result in danger to the
22 public or a material delay or hindrance to the provision of service to the public
23 if the outage, cut, rupture, leak or any other such failure of public utility facilities
24 is not immediately repaired, controlled, stabilized or rectified; or

25 (c) Any occurrence involving a public utility facility that a reasonable
26 person could conclude under the circumstances that immediate and undelayed
27 action by the public utility is necessary and warranted;

28 (4) "Excavation", any act by which earth, asphalt, concrete, sand, gravel,
29 rock or any other material in or on the ground is cut into, dug, uncovered,
30 removed, or otherwise displaced, by means of any tools, equipment or explosives,
31 except that the following shall not be deemed excavation:

32 (a) Any de minimis displacement or movement of ground caused by
33 pedestrian or vehicular traffic;

34 (b) The replacement of utility poles and related equipment at the existing
35 general location that does not involve either a street or sidewalk cut; or

36 (c) Any other activity which does not disturb or displace surface conditions
37 of the earth, asphalt, concrete, sand, gravel, rock or any other material in or on
38 the ground;

39 (5) "Management costs" or "rights-of-way management costs", the actual
40 costs a political subdivision reasonably incurs in managing its public
41 rights-of-way, including such costs, if incurred, as those associated with the
42 following:

43 (a) Issuing, processing and verifying right-of-way permit applications;

44 (b) Inspecting job sites and restoration projects;

45 (c) Protecting or moving public utility right-of-way user construction
46 equipment after reasonable notification to the public utility right-of-way user
47 during public right-of-way work;

48 (d) Determining the adequacy of public right-of-way restoration;

49 (e) Restoring work inadequately performed after providing notice and the
50 opportunity to correct the work; and

51 (f) Revoking right-of-way permits.

52 Right-of-way management costs shall be the same for all entities doing similar

53 work. Management costs or rights-of-way management costs shall not include
54 payment by a public utility right-of-way user for the use or rent of the public
55 right-of-way, degradation of the public right-of-way or any costs as outlined in
56 paragraphs (a) to (f) of this subdivision which are incurred by the political
57 subdivision as a result of use by users other than public utilities, the attorneys'
58 fees and cost of litigation relating to the interpretation of this section or section
59 67.1832, or litigation, interpretation or development of any ordinance enacted
60 pursuant to this section or section 67.1832, or attorneys' fees and costs in
61 connection with issuing, processing, or verifying right-of-way permits or other
62 applications or agreements, or the political subdivision's fees and costs related to
63 appeals taken pursuant to section 67.1838. In granting or renewing a franchise
64 for a cable television system, a political subdivision may impose a franchise fee
65 and other terms and conditions permitted by federal law;

66 (6) "Managing the public right-of-way", the actions a political subdivision
67 takes, through reasonable exercise of its police powers, to impose rights, duties
68 and obligations on all users of the right-of-way, including the political
69 subdivision, in a reasonable, competitively neutral and nondiscriminatory and
70 uniform manner, reflecting the distinct engineering, construction, operation,
71 maintenance and public work and safety requirements applicable to the various
72 users of the public right-of-way, provided that such rights, duties and obligations
73 shall not conflict with any federal law or regulation. In managing the public
74 right-of-way, a political subdivision may:

75 (a) Require construction performance bonds or insurance coverage or
76 demonstration of self-insurance at the option of the political subdivision or if the
77 public utility right-of-way user has twenty-five million dollars in net assets and
78 does not have a history of permitting noncompliance **[within] in** the political
79 subdivision as defined by the political subdivision, then the public utility
80 right-of-way user shall not be required to provide such bonds or insurance;

81 (b) Establish coordination and timing requirements that do not impose a
82 barrier to entry;

83 (c) Require public utility right-of-way users to submit, for right-of-way
84 projects commenced after August 28, 2001, requiring excavation within the public
85 right-of-way, whether initiated by a political subdivision or any public utility
86 right-of-way user, project data in the form maintained by the user and in a
87 reasonable time after receipt of the request based on the amount of data
88 requested;

89 (d) Establish right-of-way permitting requirements for street excavation;

90 (e) Establish removal requirements for abandoned equipment or facilities,
91 if the existence of such facilities prevents or significantly impairs right-of-way
92 use, repair, excavation or construction;

93 (f) Establish permitting requirements for towers and other structures or
94 equipment for wireless communications facilities in the public right-of-way[,
95 notwithstanding] **under the provisions of section 67.1832, provided that such**
96 **permitting requirements shall also be consistent with sections 67.5090**
97 **to 67.5103 and sections 67.5110 to 67.5121;**

98 (g) Establish standards for street restoration in order to lessen the impact
99 of degradation to the public right-of-way; and

100 (h) Impose permit conditions to protect public safety;

101 (7) "Political subdivision", a city, town, village, county of the first
102 classification or county of the second classification;

103 (8) "Public right-of-way", the area on, below or above a public roadway,
104 highway, street or alleyway in which the political subdivision has an ownership
105 interest, but not including:

106 (a) The airwaves above a public right-of-way with regard to cellular or
107 other nonwire telecommunications or broadcast service;

108 (b) Easements obtained by utilities or private easements in platted
109 subdivisions or tracts;

110 (c) Railroad rights-of-way and ground utilized or acquired for railroad
111 facilities; or

112 (d) Poles, pipes, cables, conduits, wires, optical cables, or other means of
113 transmission, collection or exchange of communications, information, substances,
114 data, or electronic or electrical current or impulses utilized by a municipally
115 owned or operated utility pursuant to chapter 91 or pursuant to a charter form
116 of government;

117 (9) "Public utility", every cable television service provider, every pipeline
118 corporation, gas corporation, electrical corporation, rural electric cooperative,
119 telecommunications company, water corporation, heating or refrigerating
120 corporation or sewer corporation under the jurisdiction of the public service
121 commission; every municipally owned or operated utility pursuant to chapter 91
122 or pursuant to a charter form of government or cooperatively owned or operated
123 utility pursuant to chapter 394; every street light maintenance district; every
124 privately owned utility; and every other entity, regardless of its form of
125 organization or governance, whether for profit or not, which in providing a public
126 utility type of service for members of the general public, utilizes pipes, cables,

127 conduits, wires, optical cables, or other means of transmission, collection or
128 exchange of communications, information, substances, data, or electronic or
129 electrical current or impulses, in the collection, exchange or dissemination of its
130 product or services through the public rights-of-way;

131 (10) "Public utility right-of-way user", a public utility owning or
132 controlling a facility in the public right-of-way; and

133 (11) "Right-of-way permit", a permit issued by a political subdivision
134 authorizing the performance of excavation work in a public right-of-way.

67.1846. 1. Nothing in sections 67.1830 to 67.1846 relieves the political
2 subdivision of any obligations under an existing franchise agreement in effect on
3 May 1, 2001. Nothing in sections 67.1830 to 67.1846 will apply to that portion
4 of any ordinance passed prior to May 1, 2001, which establishes a street
5 degradation fee. Nothing in sections 67.1830 to 67.1846 shall be construed as
6 limiting the authority of county highway engineers or relieving public utility
7 right-of-way users from any obligations set forth in chapters 229 to 231. Nothing
8 in sections 67.1830 to 67.1846 shall be deemed to relieve a public utility
9 right-of-way user of the provisions of an existing franchise, franchise fees, license
10 or other agreement or permit in effect on May 1, 2001. Nothing in sections
11 67.1830 to 67.1846 shall prohibit a political subdivision or public utility
12 right-of-way user from renewing or entering into a new or existing franchise, as
13 long as all other public utility right-of-way users have use of the public
14 right-of-way on a nondiscriminatory basis. Nothing in sections 67.1830 to 67.1846
15 shall prevent a grandfathered political subdivision from enacting new ordinances,
16 including amendments of existing ordinances, charging a public utility
17 right-of-way user a fair and reasonable linear foot fee or antenna fee or from
18 enforcing or renewing existing linear foot ordinances for use of the right-of-way,
19 provided that the public utility right-of-way user either:

20 (1) Is entitled under the ordinance to a credit for any amounts paid as
21 business license taxes or gross receipts taxes; or

22 (2) Is not required by the political subdivision to pay the linear foot fee
23 **or antenna fee** if the public utility right-of-way user is paying gross receipts
24 taxes, **business license fees, or business license taxes that are not**
25 **nominal and that are imposed specifically on communications-related**
26 **revenue, services, or equipment.**

27 For purposes of this section, a "grandfathered political subdivision" is any
28 political subdivision which has, prior to May 1, 2001, enacted one or more
29 ordinances reflecting a policy of imposing any linear foot fees on any public utility

30 right-of-way user, including ordinances which were specific to particular public
31 right-of-way users. Any existing ordinance or new ordinance passed by a
32 grandfathered political subdivision providing for payment of the greater of a
33 linear foot fee or a gross receipts [fee] **tax** shall be enforceable only with respect
34 to the linear foot fee.

35 2. Nothing in sections 67.1830 to 67.1846 shall prohibit a political
36 subdivision from enacting, renewing or enforcing provisions of an ordinance to
37 require a business license tax, sales tax, occupation tax, franchise tax or franchise
38 fee, property tax or other similar tax, to the extent consistent with federal
39 law. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision
40 from enacting, enforcing or renewing provisions of an ordinance to require a gross
41 receipts tax pursuant to chapter 66, chapter 92, or chapter 94. For purposes of
42 this subsection, the term "franchise fee" shall mean "franchise tax".

67.5110. Sections 67.5110 to 67.5121 shall be known and may be
2 **cited as the "Uniform Small Wireless Facility Deployment Act", which**
3 **is intended to encourage and streamline the deployment of small**
4 **wireless facilities and to help ensure that robust and dependable**
5 **wireless radio-based communication services and networks are**
6 **available throughout Missouri, which is a matter of legitimate**
7 **statewide concern, by adopting a uniform statewide framework for the**
8 **deployment of small wireless facilities and the utility poles to which**
9 **they are attached consistent with sections 67.5110 to 67.5121 and**
10 **sections 67.1830 to 67.1846.**

67.5111. As used in sections 67.5110 to 67.5121, the following
2 **terms shall mean:**

3 (1) "Antenna", communications equipment that transmits or
4 receives electromagnetic radio frequency signals used in the provision
5 of wireless services;

6 (2) "Applicable codes", uniform building, fire, electrical,
7 plumbing, or mechanical codes adopted by a recognized national code
8 organization or local amendments to such codes enacted to prevent
9 physical property damage or reasonably foreseeable injury to persons
10 to the extent not inconsistent with sections 67.5110 to 67.5121;

11 (3) "Applicant", any person who submits an application and is a
12 wireless provider;

13 (4) "Application", a request submitted by an applicant to an
14 authority for a permit to collocate small wireless facilities on a utility

15 pole or wireless support structure, or to approve the installation,
16 modification, or replacement of a utility pole;

17 (5) "Authority", the state or any agency, county, municipality,
18 district, or subdivision thereof or any instrumentality of the same
19 including, but not limited to, municipal electric utilities. The term
20 shall not include state courts having jurisdiction over an authority;

21 (6) "Authority pole", a utility pole owned, managed, or operated
22 by or on behalf of an authority;

23 (7) "Authority wireless support structure", a wireless support
24 structure owned, managed, or operated by or on behalf of an authority;

25 (8) "Collocate" or "collocation", to install, mount, maintain,
26 modify, operate, or replace small wireless facilities on or immediately
27 adjacent to a wireless support structure or utility pole, provided that
28 the small wireless facility antenna is located on the wireless support
29 structure or utility pole;

30 (9) "Communications facility", the set of equipment and network
31 components, including wires, cables, and associated facilities used by
32 a cable operator, as defined in 47 U.S.C. Section 522(5); a
33 telecommunications carrier, as defined in 47 U.S.C. Section 153(51); a
34 provider of information service, as defined in 47 U.S.C. Section 153(24);
35 or a wireless services provider; to provide communications services,
36 including cable service, as defined in 47 U.S.C. Section 522(6);
37 telecommunications service, as defined in 47 U.S.C. Section 153(53); an
38 information service, as defined in 47 U.S.C. Section 153(24); wireless
39 communications service; or other one-way or two-way communications
40 service;

41 (10) "Communications service provider", a cable operator, as
42 defined in 47 U.S.C. Section 522(5); a provider of information service,
43 as defined in 47 U.S.C. Section 153(24); a telecommunications carrier,
44 as defined in 47 U.S.C. Section 153(51); or a wireless provider;

45 (11) "Decorative pole", an authority pole that is specially
46 designed and placed for aesthetic purposes;

47 (12) "Fee", a one-time, nonrecurring charge;

48 (13) "Historic district", a group of buildings, properties, or sites
49 that are either listed in the National Register of Historic Places or
50 formally determined eligible for listing by the Keeper of the National
51 Register, the individual who has been delegated the authority by the

52 federal agency to list properties and determine their eligibility for the
53 National Register, in accordance with Section VI.D.1.a.i-v of the
54 Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1,
55 Appendix C, or are otherwise located in a district made subject to
56 special design standards adopted by a local ordinance or under state
57 law as of January 1, 2018, or subsequently enacted for new
58 developments;

59 (14) "Micro wireless facility", a small wireless facility that meets
60 the following qualifications:

61 (a) Is not larger in dimension than twenty-four inches in length,
62 fifteen inches in width, and twelve inches in height; and

63 (b) Any exterior antenna no longer than eleven inches;

64 (15) "Permit", a written authorization required by an authority
65 to perform an action or initiate, continue, or complete a project;

66 (16) "Person", an individual, corporation, limited liability
67 company, partnership, association, trust, or other entity or
68 organization, including an authority;

69 (17) "Rate", a recurring charge;

70 (18) "Right-of-way", the area on, below, or above a public
71 roadway, highway, street, sidewalk, alley, or similar property used for
72 public travel, but not including a federal interstate highway, railroad
73 right-of-way, or private easement;

74 (19) "Small wireless facility", a wireless facility that meets both
75 of the following qualifications:

76 (a) Each wireless provider's antenna could fit within an
77 enclosure of no more than six cubic feet in volume; and

78 (b) All other equipment associated with the wireless facility,
79 whether ground or pole mounted, is cumulatively no more than twenty-
80 eight cubic feet in volume, provided that no single piece of equipment
81 on the utility pole shall exceed nine cubic feet in volume and no single
82 piece of ground mounted equipment shall exceed fifteen cubic feet in
83 volume; exclusive of equipment required by an electric utility or
84 municipal electric utility to power the small wireless facility.

85 The following types of associated ancillary equipment shall not be
86 included in the calculation of equipment volume: electric meter,
87 concealment elements, telecommunications demarcation box, grounding
88 equipment, power transfer switch, cut-off switch, and vertical cable

89 runs and related conduit for the connection of power and other
90 services;

91 (20) "Technically feasible", by virtue of engineering or spectrum
92 usage, the proposed placement for a small wireless facility or its design
93 or site location can be implemented without a reduction in the
94 functionality of the small wireless facility;

95 (21) "Utility pole", a pole or similar structure that is or may be
96 used in whole or in part by or for wireline communications, electric
97 distribution, lighting, traffic control, signage, or a similar function, or
98 for the collocation of small wireless facilities; provided, however, such
99 term shall not include wireless support structures or electric
100 transmission structures and breakaway poles owned by the state
101 highways and transportation commission;

102 (22) "Wireless facility", equipment at a fixed location that enables
103 wireless communications between user equipment and a
104 communications network, including equipment associated with wireless
105 communications and radio transceivers, antennas, coaxial or fiber-optic
106 cable, regular and backup power supplies, and comparable equipment,
107 regardless of technological configuration. The term includes small
108 wireless facilities. The term does not include:

109 (a) The structure or improvements on, under, or within which
110 the equipment is collocated;

111 (b) Coaxial or fiber-optic cable between wireless support
112 structures or utility poles;

113 (c) Coaxial or fiber-optic cable not directly associated with a
114 particular small wireless facility; or

115 (d) A wireline backhaul facility;

116 (23) "Wireless infrastructure provider", any person, including a
117 person authorized to provide telecommunications service in the state,
118 that builds or installs wireless communication transmission equipment
119 or wireless facilities but that is not a wireless services provider;

120 (24) "Wireless provider", a wireless infrastructure provider or a
121 wireless services provider;

122 (25) "Wireless services", any services using licensed or unlicensed
123 spectrum, including the use of wifi, whether at a fixed location or
124 mobile, provided to the public using wireless facilities;

125 (26) "Wireless services provider", a person who provides wireless

126 services;

127 (27) "Wireless support structure", an existing structure, such as
128 a monopole or tower, whether guyed or self-supporting, designed to
129 support or capable of supporting wireless facilities; an existing or
130 proposed billboard; an existing or proposed building; or other existing
131 or proposed structure capable of supporting wireless facilities, other
132 than a structure designed solely for the collocation of small wireless
133 facilities. Such term shall not include a utility pole;

134 (28) "Wireline backhaul facility", a physical transmission path, all
135 or part of which is within the right-of-way, used for the transport of
136 communication data by wire from a wireless facility to a network.

67.5112. 1. The provisions of this section shall only apply to
2 activities of a wireless provider within the right-of-way to deploy small
3 wireless facilities and associated utility poles.

4 2. An authority shall not enter into an exclusive arrangement
5 with any person for use or management of the right-of-way for the
6 collocation of small wireless facilities or the installation, operation,
7 marketing, modification, maintenance, management, or replacement of
8 utility poles.

9 3. Subject to the provisions of sections 67.5110 to 67.5121, an
10 authority shall permit a wireless provider, as a permitted use not
11 subject to zoning review or approval, to collocate small wireless
12 facilities and install, maintain, modify, operate, and replace utility
13 poles along, across, upon, and under the right-of-way, except that the
14 placement in the right-of-way of new or modified utility poles in single-
15 family residential or areas zoned as historic as of August 28, 2018,
16 remains subject to any applicable zoning requirements that are
17 consistent with sections 67.5090 to 67.5103. Small wireless facilities
18 collocated outside the right-of-way in property not zoned primarily for
19 single-family residential use shall be classified as permitted uses and
20 not subject to zoning review or approval. Such small wireless facilities
21 and utility poles shall be installed and maintained as not to obstruct or
22 hinder the usual travel or public safety on such right-of-way or obstruct
23 the legal use of such right-of-way by authorities or other authorized
24 right-of-way users. Nothing in this section shall grant any wireless
25 provider the power of eminent domain.

26 4. Nothing in sections 67.5110 to 67.5121 shall prevent an

27 authority, on a nondiscriminatory basis, from requiring a permit, with
28 reasonable conditions, for work in a right-of-way that will involve
29 excavation, affect traffic patterns, obstruct traffic in the right-of-way,
30 or materially impede the use of a sidewalk.

31 5. Each new, replacement, or modified utility pole installed in
32 the right-of-way shall not exceed the greater of ten feet in height above
33 the tallest existing utility pole in place as of the effective date of
34 sections 67.5110 to 67.5121 located within five hundred feet of the new
35 pole in the same right-of-way, or fifty feet above ground level. New
36 small wireless facilities in the right-of-way shall not extend more than
37 ten feet above an existing utility pole in place as of August 28, 2018, or
38 for small wireless facilities on a new utility pole, above the height
39 permitted for a new utility pole under this section. A new, modified, or
40 replacement utility pole that exceeds these height limits shall be
41 subject to any applicable zoning requirements that apply to other
42 utility poles and are consistent with sections 67.5090 to 67.5103.

43 6. A wireless provider shall be permitted to replace decorative
44 poles when necessary to collocate a small wireless facility, but any
45 replacement pole shall reasonably conform to the design aesthetics of
46 the decorative pole or poles being replaced.

47 7. Subject to subsection 4 of section 67.5113, and except for
48 facilities excluded from evaluation for effects on historic properties
49 under 47 C.F.R. Section 1.1307(a)(4) of the Federal Communications
50 Commission rules, an authority may require reasonable, technically
51 feasible, nondiscriminatory, and technologically neutral design or
52 concealment measures in a historic district. Any such design or
53 concealment measures shall not have the effect of prohibiting any
54 provider's technology, nor shall any such measures be considered a
55 part of the small wireless facility for purposes of the size restrictions
56 in the definition of small wireless facility.

57 8. The authority, in the exercise of its administration and
58 regulation related to the management of the right-of-way, shall be
59 competitively neutral with regard to other users of the right-of-way,
60 including that terms shall not be unreasonable or discriminatory and
61 shall not violate any applicable law. Nothing in sections 67.5110 to
62 67.5121 shall in any way be construed to modify or otherwise affect the
63 rights, privileges, obligations, or duties, existing prior to August 28,

64 2018, of an electrical corporation, as defined in section 386.020, or of a
65 rural electric cooperative established under chapter 394, except to the
66 extent that the corporation or cooperative deploys small wireless
67 facilities that are used to provide services unrelated to the provision
68 of their electric and gas utility service.

69 9. Small wireless facility collocations completed on or after
70 August 28, 2018, shall not interfere with or impair the operation of
71 existing utility facilities, or authority or third-party attachments. The
72 authority may require a wireless provider to repair all damage to the
73 right-of-way directly caused by the activities of the wireless provider
74 in the right-of-way and to return the right-of-way to its functional
75 equivalence before the damage under the competitively neutral,
76 reasonable requirements and specifications of the authority. If the
77 wireless provider fails to make the repairs required by the authority
78 within a reasonable time after written notice, the authority may make
79 those repairs and charge the applicable party the reasonable,
80 documented cost of such repairs.

67.5113. 1. The provisions of this section shall apply to the
2 permitting of small wireless facilities by a wireless provider in or
3 outside the right-of-way and to the permitting of the installation,
4 modification, and replacement of utility poles by a wireless provider
5 inside the right-of-way.

6 2. An authority shall not prohibit, regulate, or charge for the
7 collocation of small wireless facilities, except as provided under
8 sections 67.5110 to 67.5121.

9 3. An authority may require an applicant to obtain one or more
10 permits to collocate a small wireless facility or install a new, modified,
11 or replacement utility pole associated with a small wireless facility as
12 provided in subsection 3 of section 67.5112, provided such permits are
13 of general applicability and do not apply exclusively to wireless
14 facilities. An authority shall receive applications for, process, and
15 issue such permits subject to the following requirements:

16 (1) An authority shall not directly or indirectly require an
17 applicant to perform services or provide goods unrelated to the permit,
18 such as in-kind contributions to the authority, including reserving
19 fiber, conduit, or pole space for the authority;

20 (2) An applicant shall not be required to provide more

21 information to obtain a permit than communications service providers
22 that are not wireless providers, provided that an applicant may be
23 required to include construction and engineering drawings and
24 information demonstrating compliance with the criteria in subdivision
25 (9) of this subsection and an attestation that the small wireless facility
26 complies with the volumetric limitations in subdivision (19) of section
27 67.5111;

28 (3) An authority shall not require the placement of small wireless
29 facilities on any specific utility pole or category of poles or require
30 multiple antenna systems on a single utility pole;

31 (4) An authority shall not limit the placement of small wireless
32 facilities by minimum horizontal separation distances;

33 (5) An authority may require a small wireless facility to comply
34 with reasonable, objective, and cost-effective concealment or safety
35 requirements adopted by the authority;

36 (6) The authority may require an applicant that is not a wireless
37 services provider to provide evidence of agreements or plans
38 demonstrating that the small wireless facilities will be operational for
39 use by a wireless services provider within one year after the permit
40 issuance date, unless the authority and the applicant agree to extend
41 this period or if delay is caused by lack of commercial power or
42 communications transport facilities to the site and the applicant
43 notifies the authority thereof. An authority may require an applicant
44 that is a wireless services provider to provide the information required
45 by this subdivision by attestation;

46 (7) Within fifteen days of receiving an application, an authority
47 shall determine and notify the applicant in writing whether the
48 application is complete. If an application is incomplete, an authority
49 shall specifically identify the missing information in writing. The
50 processing deadline in subdivision (8) of this subsection is tolled from
51 the time the authority sends the notice of incompleteness to the time
52 the applicant provides the missing information. That processing
53 deadline may also be tolled by agreement of the applicant and the
54 authority;

55 (8) An application for collocation shall be processed on a
56 nondiscriminatory basis and deemed approved if the authority fails to
57 approve or deny the application within forty-five days of receipt of the

58 application, except that the state highways and transportation
59 commission shall have sixty days to approve or deny an application
60 from the date the application was received. An application for
61 installation of a new, modified, or replacement utility pole associated
62 with a small wireless facility shall be processed on a nondiscriminatory
63 basis and deemed approved if the authority fails to approve or deny the
64 application within sixty days of receipt of the application;

65 (9) An authority may deny a proposed collocation of a small
66 wireless facility or installation, modification, or replacement of a
67 utility pole that meets the requirements in subsection 3 of section
68 67.5112 only if the action proposed in the application could reasonably
69 be expected to:

70 (a) Materially interfere with the safe operation of traffic control
71 equipment or authority-owned communications equipment;

72 (b) Materially interfere with sight lines or clear zones for
73 transportation, pedestrians, or nonmotorized vehicles;

74 (c) Materially interfere with compliance with the Americans with
75 Disabilities Act, 42 U.S.C. Sections 12101 to 12213, or similar federal or
76 state standards regarding pedestrian access or movement;

77 (d) Materially obstruct or hinder the usual travel or public safety
78 on the right-of-way;

79 (e) Materially obstruct the legal use of the right-of-way by an
80 authority, utility, or other third party;

81 (f) Fail to comply with reasonable and nondiscriminatory
82 spacing requirements of general application adopted by ordinance or
83 regulations promulgated by the state highways and transportation
84 commission that concern the location of ground mounted equipment
85 and new utility poles. Such spacing requirements shall not prevent a
86 wireless provider from serving any location and shall include a waiver,
87 zoning, or other process that addresses wireless provider requests for
88 exception or variance and does not prohibit granting of such
89 exceptions or variances;

90 (g) Fail to comply with applicable codes, including nationally
91 recognized engineering standards for utility poles or wireless support
92 structures;

93 (h) Fail to comply with the reasonably objective and documented
94 aesthetics of a decorative pole and the applicant does not agree to pay

95 to match the applicable decorative elements; or

96 (i) Fail to comply with reasonable and nondiscriminatory
97 undergrounding requirements contained in local ordinances as of
98 January 1, 2018, or subsequently enacted for new developments, that
99 require all utility facilities in the area to be placed underground and
100 prohibit the installation of new or the modification of existing utility
101 poles in a right-of-way without prior approval, provided that such
102 requirements include a waiver or other process of addressing requests
103 to install such utility poles and do not prohibit the replacement or
104 modification of existing utility poles consistent with this section or the
105 provision of wireless services;

106 (10) The authority shall document the complete basis for a denial
107 in writing, and send the documentation to the applicant on or before
108 the day the authority denies an application. The applicant may cure
109 the deficiencies identified by the authority and resubmit the
110 application within thirty days of the denial without paying an
111 additional application fee. The authority shall approve or deny the
112 revised application within thirty days. Any subsequent review shall be
113 limited to the deficiencies cited in the denial;

114 (11) (a) An applicant seeking to collocate small wireless facilities
115 within the jurisdiction of a single authority shall be allowed, at the
116 applicant's discretion, to file a consolidated application and receive a
117 single permit for the collocation of multiple small wireless facilities;
118 provided, however, the denial of one or more small wireless facilities
119 in a consolidated application shall not delay processing of any other
120 small wireless facilities in the same batch; and

121 (b) An application may include up to twenty separate small
122 wireless facilities, provided that they are for the same or materially
123 same design of small wireless facility being collocated on the same or
124 materially the same type of utility pole or wireless support structure,
125 and geographically proximate. If an authority receives individual
126 applications for approval of more than fifty small wireless facilities or
127 consolidated applications for approval of more than seventy-five small
128 wireless facilities within a fourteen day period, whether from a single
129 applicant or multiple applicants, the authority may, upon its own
130 request, obtain an automatic thirty day extension for any additional
131 collocation or replacement or installation application submitted during

132 that fourteen day period or in the fourteen day period immediately
133 following the prior fourteen day period. An authority shall promptly
134 communicate its request to each and any affected applicant. In
135 rendering a decision on an application for multiple small wireless
136 facilities, the authority may approve the application as to certain
137 individual small wireless facilities while denying it as to others based
138 on applicable requirements and standards, including those identified
139 in this section. The authority's denial of any individual small wireless
140 facility or subset of small wireless facilities within an application shall
141 not be a basis to deny the application as a whole;

142 (12) Installation or collocation for which a permit is granted
143 under this section shall be completed within one year after the permit
144 issuance date unless the authority and the applicant agree to extend
145 this period, or the applicant notifies the authority that the delay is
146 caused by a lack of commercial power or communications transport
147 facilities to the site. Approval of an application authorizes the
148 applicant to:

149 (a) Undertake the installation or collocation; and

150 (b) Operate and maintain the small wireless facilities and any
151 associated utility pole covered by the permit for a period of not less
152 than ten years, which shall be renewed for equivalent durations so long
153 as they are in compliance with the criteria set forth in subdivision (9)
154 of this subsection, unless the applicant and the authority agree to an
155 extension term of less than ten years. The provisions of this paragraph
156 shall be subject to the right of the authority to require, upon adequate
157 notice and at the facility owner's own expense, relocation of facilities
158 as may be needed in the interest of public safety and convenience, and
159 the applicant's right to terminate at any time;

160 (13) An authority shall not institute, either expressly or de facto,
161 a moratorium on filing, receiving, or processing applications or issuing
162 permits or other approvals, if any, for the collocation of small wireless
163 facilities or the installation, modification, or replacement of utility
164 poles to support small wireless facilities. Notwithstanding the
165 foregoing, an authority may impose a temporary moratorium on
166 applications for small wireless facilities and the collocation thereof for
167 the duration of a federal or state-declared natural disaster plus a
168 reasonable recovery period, or for no more than thirty days in the

169 event of a major and protracted staffing shortage that reduces the
170 number of personnel necessary to receive, review, process, and approve
171 or deny applications for the collocation of small wireless facilities by
172 more than fifty percent;

173 (14) Nothing in this section precludes an authority from adopting
174 reasonable rules with respect to the removal of abandoned small
175 wireless facilities;

176 (15) In determining whether sufficient capacity exists to
177 accommodate the attachment of a new small wireless facility, an
178 authority shall grant access subject to a reservation to reclaim such
179 space, when and if needed, to meet the pole owner's core utility
180 purpose or documented authority plan projected at the time of the
181 application pursuant to a bona fide development plan, or if the state
182 highways and transportation commission is the relevant authority and
183 determines, in its sole discretion, attachment of the small wireless
184 facility will affect the safety of the public using the right-of-way; and

185 (16) In emergency circumstances that result from a natural
186 disaster or accident, an authority may require the owner or operator
187 of a wireless facility to immediately remove such facility if the wireless
188 facility is obstructing traffic or causing a hazard on the authority's
189 roadway. In the event that the owner or operator of the wireless
190 facility is unable to immediately remove the wireless facility, the
191 authority is authorized to remove the wireless facility from the
192 roadway or other position that renders the wireless facility
193 hazardous. Under these emergency circumstances, the authority shall
194 not be liable for any damage caused by the remaining wireless facility
195 and may charge the owner or operator of the wireless facility the
196 authority's reasonable expenses incurred in removing the wireless
197 facility.

198 4. An authority shall not require an application for:

199 (1) Routine maintenance on previously permitted small wireless
200 facilities;

201 (2) The replacement of small wireless facilities with small
202 wireless facilities that are the same or smaller in size, weight, and
203 height; or

204 (3) The installation, placement, maintenance, operation, or
205 replacement of micro wireless facilities that are strung on cables

206 between utility poles, in compliance with applicable codes.
207 For work described in subdivisions (1) and (2) of this subsection that
208 involves different equipment than that being replaced, an authority
209 may require a description of such new equipment so that the authority
210 may maintain an accurate inventory of the small wireless facilities at
211 that location.

212 5. No approval for the installation, placement, maintenance, or
213 operation of a small wireless facility under this section shall be
214 construed to confer authorization for the provision of cable television
215 service, or installation, placement, maintenance, or operation of a
216 wireline backhaul facility or communications facility, other than a
217 small wireless facility, in the right-of-way.

218 6. Except as provided in sections 67.5110 to 67.5121, no authority
219 may adopt or enforce any ordinances or requirements that require the
220 holder of a franchise or video service authorization as defined under
221 section 67.2677 to obtain additional authorization or to pay additional
222 fees for the provision of communications service over such holder's
223 communications facilities in the right-of-way.

67.5114. 1. This section only applies to collocations on authority
2 poles and authority wireless support structures that are located on
3 authority property outside the right-of-way.

4 2. Subject to subsection 3 of this section, an authority shall
5 authorize the collocation of small wireless facilities on authority
6 wireless support structures and authority poles to the same extent, if
7 any, that the authority permits access to such structures for other
8 commercial projects or uses. Such collocations shall be subject to
9 reasonable and nondiscriminatory rates, fees, and terms as provided in
10 an agreement between the authority, or its agent, and the wireless
11 provider.

12 3. An authority shall not enter into an exclusive agreement with
13 a wireless provider concerning authority poles or authority wireless
14 support structures, including stadiums and enclosed arenas, unless the
15 agreement meets the following requirements:

16 (1) The wireless provider provides service using a shared
17 network of wireless facilities that it makes available for access by other
18 wireless providers, on reasonable and nondiscriminatory rates and
19 terms that shall include use of the entire shared network, as to itself,

20 an affiliate, or any other entity; or

21 (2) The wireless provider allows other wireless providers to
22 collocate small wireless facilities, on reasonable and nondiscriminatory
23 rates and terms, as to itself, an affiliate, or any other entity.

24 4. When determining whether a rate, fee, or term is reasonable
25 and nondiscriminatory for the purposes of this section, consideration
26 may be given to any relevant facts, including alternative financial or
27 service remuneration, characteristics of the proposed equipment or
28 installation, structural limitations, or other commercial or unique
29 features or components.

67.5115. 1. The provisions of this section shall apply to activities
2 of a wireless provider within the right-of-way.

3 2. A person owning, managing, or controlling authority poles in
4 the right-of-way shall not enter into an exclusive arrangement with any
5 person for the right to attach to such poles. A person who purchases
6 or otherwise acquires an authority pole is subject to the requirements
7 of this section.

8 3. An authority shall allow the collocation of small wireless
9 facilities on authority poles using the process set forth in section
10 67.5113.

11 4. The authority may require, as part of an application,
12 engineering and construction drawings, as well as plans and detailed
13 cost estimates for any make-ready work as needed, for which the
14 applicant shall be solely responsible.

15 5. Make-ready work shall be addressed as follows, unless the
16 parties agree to different terms in a pole attachment agreement:

17 (1) The rates, fees, and terms and conditions for the make-ready
18 work to collocate on an authority pole shall be nondiscriminatory,
19 competitively neutral, and commercially reasonable, and shall comply
20 with sections 67.5110 to 67.5121;

21 (2) The authority shall provide a good faith estimate for any
22 make-ready work necessary to enable the pole to support the requested
23 collocation by a wireless provider, including pole replacement if
24 necessary, within sixty days after receipt of a complete
25 application. Make-ready work, including any pole replacement, shall
26 be completed within sixty days of written acceptance of the good faith
27 estimate and advance payment, if required, by the applicant. An

28 authority may require replacement of the authority pole on a
29 nondiscriminatory basis for reasons of safety and reliability, including
30 a demonstration that the collocation would make the authority pole
31 structurally unsound, including, but not limited to, if the collocation
32 would cause the authority pole to fail a crash test; and

33 (3) The person owning, managing, or controlling the authority
34 pole shall not require more make-ready work than required to meet
35 applicable codes or industry standards. Fees for make-ready work shall
36 not include costs related to preexisting or prior damage or
37 noncompliance unless the authority had determined, prior to the filing
38 of the application, to permanently abandon and not repair or replace
39 the structure. Fees for make-ready work, including any pole
40 replacement, shall not exceed actual costs or the amount charged to
41 other communications service providers for similar work, and shall not
42 include third party fees, charges, or expenses, except for amounts
43 charged by licensed contractors actually performing the make-ready
44 work.

45 6. When a small wireless facility is located in the right-of-way of
46 the state highway system, equipment and facilities directly associated
47 with a particular small wireless facility, including coaxial and fiber
48 optic cable, conduit, and ground mounted equipment, shall remain in
49 the utility corridor except as needed to reach an authority or utility
50 pole in the right-of-way but outside the utility corridor in which the
51 small wireless facility is collocated.

67.5116. 1. This section shall govern the rate to collocate small
2 wireless facilities and an authority's rates and fees for the placement
3 of utility poles, but shall not limit an authority's ability to recover
4 specific removal costs from the attaching wireless provider for
5 abandoned structures. The rates to collocate on authority poles shall
6 be nondiscriminatory regardless of the services provided by the
7 collocating applicant.

8 2. An authority shall not require a wireless provider to pay any
9 rates, fees, or compensation to the authority or other person other than
10 what is expressly authorized by sections 67.5110 to 67.5121 for the use
11 and occupancy of a right-of-way, for collocation of small wireless
12 facilities on utility poles in the right-of-way, or for the installation,
13 maintenance, modification, operation, and replacement of utility poles

14 in the right-of-way.

15 **3. Application fees shall be subject to the following requirements:**

16 **(1) Application fees shall be based on actual, direct, and**
17 **reasonable administrative costs incurred for the review, processing,**
18 **and approval of an application for the placement of a small wireless**
19 **facility or the installation or replacement of a utility pole. Any such**
20 **costs already recovered by existing fees, rates, licenses, or taxes paid**
21 **by a wireless services provider shall not be included in the application**
22 **fee;**

23 **(2) An application fee shall not include travel expenses incurred**
24 **by a third party in its review of an application, or direct payment or**
25 **reimbursement of third party rates or fees charged on a contingency**
26 **basis or a result-based arrangement;**

27 **(3) The total fee for any application under subsection 3 of section**
28 **67.5113 for collocation of small wireless facilities on existing authority**
29 **poles shall not exceed one hundred dollars per small wireless facility.**
30 **An applicant filing a consolidated application under subdivision (11) of**
31 **subsection 3 of section 67.5113 shall pay one hundred dollars per small**
32 **wireless facility included in the consolidated application; and**

33 **(4) The total application fees for the installation, modification,**
34 **or replacement of a utility pole and the collocation of an associated**
35 **small wireless facility shall not exceed five hundred dollars per pole.**

36 **4. (1) The rate for collocation of a small wireless facility to an**
37 **authority pole shall not exceed thirty-five dollars per authority pole**
38 **per year. Five years from the date of an ordinance or agreement setting**
39 **the annual rate in accordance with the rates established in this**
40 **subsection, and for two additional five year periods, an authority may**
41 **increase its rate for the collocation of a small wireless facility on an**
42 **authority pole by no more than ten percent, rounded to the nearest**
43 **dollar amount.**

44 **(2) An authority shall not charge a wireless provider any fee, tax**
45 **other than a tax authorized by subdivision (3) of this subsection, or**
46 **other charge, or require any other form of payment or compensation,**
47 **to locate a wireless facility or wireless support structure on privately**
48 **owned property, or on a wireless support structure not owned by the**
49 **authority.**

50 **(3) No authority shall demand any fees, rentals, licenses, charges,**

51 payments, or assessments from any applicant or wireless provider for,
52 or in any way relating to or arising from, the construction, deployment,
53 installation, mounting, modification, operation, use, replacement,
54 maintenance, or repair of small wireless facilities or utility poles,
55 except for the following:

56 (a) As otherwise expressly provided in sections 67.5110 to
57 67.5121;

58 (b) Applicable personal property and sales taxes or generally
59 applicable fees for encroachment or electrical permits;

60 (c) Applicable fair and reasonable linear foot fees as provided in
61 subsection 1 of section 67.1846 associated with coaxial or fiber-optic
62 cable in the right-of-way that is:

63 a. Between wireless support structures or utility poles;

64 b. Not directly associated with a particular small wireless
65 facility; or

66 c. A wireline backhaul facility.

67 No authority shall require a wireless provider to pay a linear foot fee
68 for coaxial or fiber-optic cable in the right-of-way associated with a
69 small wireless facility if the owner of such coaxial or fiber-optic cable
70 in the right-of-way already is assessed and charged such a linear foot
71 fee; and

72 (d) Right-of-way permit fees established under section 67.1840 for
73 the recovery of actual, substantiated right-of-way management costs or
74 as otherwise authorized under section 229.340.

75 Right-of-way permit fees imposed on applicants and wireless providers
76 shall be competitively neutral with regard to all other users of the
77 right-of-way; shall not be in the form of a franchise fee or tax or other
78 fee based on noncost related factors such as revenue, sales, profits,
79 lines, subscriptions, or customer counts; and shall not result in double
80 recovery where existing charges already recover the direct and actual
81 costs of managing the right-of-way. This paragraph prohibits the
82 imposition of business license taxes, business license fees, or gross
83 receipts taxes on wireless providers, whether based on gross receipts
84 or other factors, except that this subdivision allows the imposition of
85 such taxes and fees consistent with subsection 2 of section 67.1846 that
86 are also imposed on wireline telecommunications businesses operating
87 within the jurisdiction of the authority, or as mutually agreed to by the

88 authority and the wireless provider.

67.5117. Nothing in sections 67.5110 to 67.5121 shall be
2 interpreted to allow any entity to provide services regulated under 47
3 U.S.C. Sections 521 to 573 without compliance with all laws applicable
4 to such providers, nor shall sections 67.5110 to 67.5121 be interpreted
5 to impose any new requirements on cable providers for the provision
6 of such service in this state.

67.5118. Subject to the provisions of sections 67.5110 to 67.5121
2 and applicable federal law, an authority shall continue to exercise
3 zoning, land use, planning, and permitting authority within its
4 territorial boundaries, including with respect to wireless support
5 structures and utility poles, except that no authority shall have or
6 exercise any jurisdiction or authority over the design, engineering,
7 construction, installation, or operation of any small wireless facility
8 located in an interior structure or upon the site of any campus,
9 stadium, or athletic facility not owned or controlled by the authority,
10 other than to comply with applicable codes. Nothing in sections 67.5110
11 to 67.5121 authorizes the state or any political subdivision, including
12 an authority, to require wireless facility deployment or to regulate
13 wireless services.

67.5119. 1. Within the later of two months after August 28, 2018,
2 or two months after receiving a request from a wireless provider, an
3 authority shall adopt an ordinance or develop an agreement that makes
4 available to wireless providers rates, fees, and other terms that comply
5 with sections 67.5110 to 67.5121, subject to subsections 2 of this section.
6 An authority and a wireless provider may enter into an agreement
7 implementing sections 67.5110 to 67.5121, but an authority shall not
8 require a wireless provider to enter into such an agreement.

9 2. Notwithstanding the provisions of subsection 1 of this section,
10 a municipal electric utility may require an attaching entity to enter
11 into a pole attachment agreement consistent with this section, except
12 that wireless providers may collocate small wireless facilities on
13 municipal electric utility-owned utility poles located within public
14 roads or right-of-ways without being required to apply for, or enter
15 into, any individual license or franchise with the municipal electric
16 utility, municipality, or other entity, but subject to nondiscriminatory,
17 competitively neutral, and commercially reasonable terms and

18 conditions as may be set forth in a pole attachment agreement with the
19 municipal electric utility, which terms and conditions shall comply
20 with the provisions of this section and federal pole attachment
21 requirements under 47 U.S.C. Section 224 and corresponding
22 regulations in effect as of August 28, 2018. Within the later of three
23 months after August 28, 2018, or three months after receiving a request
24 by a wireless provider, each municipal electric utility shall, acting in
25 good faith, prepare and make available a standard wireless pole
26 attachment agreement that complies with the requirements of sections
27 67.5110 to 67.5121. A standard wireless pole attachment agreement
28 shall be in a form that is substantially complete so that a wireless
29 provider, acting in good faith, may accept it with little substantive
30 negotiation. Notwithstanding any provision of law to the contrary,
31 nothing shall preclude the contractual parties to a standard pole
32 attachment agreement, if mutually agreeable, from negotiating terms
33 beyond those contemplated by the standard pole attachment agreement.
34 In the absence of a standard pole attachment agreement that complies
35 with the requirements of sections 67.5110 to 67.5121 by the dates set
36 forth in this subsection, wireless providers may install and operate
37 small wireless facilities and utility poles under the requirements of
38 sections 67.5110 to 67.5121. All pole attachment agreements with
39 wireless providers shall be considered a public record, as defined in
40 section 610.010.

41 3. Sections 67.5110 to 67.5121 shall not nullify, modify, amend, or
42 prohibit a mutual agreement between an authority and a wireless
43 provider made prior to August 28, 2018, but an agreement that does not
44 fully comply with sections 67.5110 to 67.5121 shall apply only to small
45 wireless facilities and utility poles that were installed or approved for
46 installation before August 28, 2018, subject to any termination
47 provisions in the agreement. Such an agreement shall not be renewed,
48 extended, or made to apply to any small wireless facility or utility pole
49 installed or approved for installation after August 28, 2018, unless it is
50 modified to fully comply with sections 67.5110 to 67.5121. In the
51 absence of an agreement, and until such a compliant agreement or
52 ordinance is entered or adopted, small wireless facilities and utility
53 poles that become operational or were constructed before August 28,
54 2018, may remain installed and be operated under the requirements of

55 sections 67.5110 to 67.5121.

67.5120. A court of competent jurisdiction shall have jurisdiction
2 to determine all disputes arising under sections 67.5110 to 67.5121.

67.5121. 1. An authority may adopt indemnification, insurance,
2 and bonding requirements related to small wireless facility permits,
3 subject to the requirements of this section.

4 2. An authority may only require a wireless provider to
5 indemnify and hold the authority and its officers and employees
6 harmless against any damage or personal injury caused by the
7 negligence of the wireless provider or its employees, agents, or
8 contractors.

9 3. An authority may require a wireless provider to have in effect
10 insurance coverage consistent with subsection 2 of this section, or a
11 demonstration of a comparable self insurance program, so long as the
12 authority imposes similar requirements on other similarly situated
13 utility right-of-way users, and such requirements are reasonable and
14 nondiscriminatory. An authority shall not require a self-insured
15 wireless provider to obtain insurance naming the authority or its
16 officers and employees as additional insured. An authority may require
17 a wireless provider to furnish proof of insurance, if required, prior to
18 the effective date of any permit issued for a small wireless facility.

19 4. An authority may adopt bonding requirements for small
20 wireless facilities if the authority imposes similar requirements in
21 connection with permits issued for other similarly situated utility
22 right-of-way users. The purpose of such bonds shall be to:

23 (1) Provide for the removal of abandoned or improperly
24 maintained small wireless facilities, including those that an authority
25 determines need to be removed to protect public health, safety, or
26 welfare;

27 (2) Restore the right-of-way in connection with removals under
28 section 67.5113;

29 (3) Recoup rates or fees that have not been paid by a wireless
30 provider in over twelve months, so long as the wireless provider has
31 received reasonable notice from the authority of any noncompliance
32 listed above and been given an opportunity to cure;

33 (4) Bonding requirements shall not exceed one thousand five
34 hundred dollars per small wireless facility. For wireless providers with

35 multiple small wireless facilities within the jurisdiction of a single
36 authority, the total bond amount across all facilities shall not exceed
37 seventy-five thousand dollars, which amount may be combined into one
38 bond instrument.

39 5. Applicants that have at least twenty-five million dollars in
40 assets in the state and do not have a history of permitting
41 noncompliance as defined by an authority within its jurisdiction shall,
42 under section 67.1830, be exempt from the insurance and bonding
43 requirements otherwise authorized by this section.

44 6. Any contractor, subcontractor, or wireless infrastructure
45 provider shall be under contract with a wireless services provider to
46 perform work in the right-of-way related to small wireless facilities or
47 utility poles, and such entities shall be properly licensed under the
48 laws of the state and all applicable local ordinances, if required. Each
49 contracted entity shall have the same obligations with respect to his or
50 her work as a wireless services provider would have under sections
51 67.5110 to 67.5121 and other applicable laws if the work were performed
52 by a wireless services provider. The wireless services provider shall be
53 responsible for ensuring that the work of such contracted entities is
54 performed consistently with the wireless services provider's permits
55 and applicable laws relating to the deployment of small wireless
56 facilities and utility poles, and responsible for promptly correcting acts
57 or omissions by such contracted entity.

58 7. The state highways and transportation commission may
59 establish indemnification, insurance, and bond requirements related to
60 small wireless facility permits as it imposes on other users of the state
61 highways and transportation commission right-of-way.

Section B. If any provision of section A of this act or the application
2 thereof to anyone or to any circumstance is held invalid, the remainder of those
3 sections and the application of such provisions to others or other circumstances
4 shall not be affected thereby.

✓