

HCS HB 1991 -- WIRELESS FACILITIES INFRASTRUCTURE

SPONSOR: Rhoads

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Utilities by a vote of 8 to 2. Voted "Do Pass" by the Rules- Administrative Oversight Committee by a vote of 10 to 3.

This bill enacts the "Uniform Small Wireless Facility Deployment Act," which establishes that an authority shall not enter into an exclusive arrangement regarding the use of the right-of-way for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance, or replacement of utility poles. Authorities shall also be nondiscriminatory in their management of right-of-ways. Wireless providers shall have the right to collocate small wireless facilities on poles in the right-of-way as a permitted use not subject to zoning, except in areas zoned as single-family residential or historic. In the latter case, small wireless facility collocation shall remain subject to the Uniform Wireless Communications Infrastructure Deployment Act.

The bill also provides certain specified pole and small wireless facility size restrictions, and provides that wireless providers shall have the right to replace decorative poles when necessary to collocate a small wireless facility. An authority may in turn require concealment measures provided they do not discriminate against a wireless provider. Small wireless facilities completed on and after the effective date of the bill shall not interfere with existing utility facilities or third-party attachments (Section 67.5112, RSMo).

Authorities are also barred from charging for the collocation of small wireless facilities except as provided by the Small Wireless Facility Deployment Act. Authorities shall only institute permitting systems for small wireless facility collocations if such permits do not exclusively apply to small wireless facilities, and authorities are further restricted in various ways as specified in the bill. Authorities shall not require applications for routine maintenance on small wireless facilities, the replacement of small wireless facilities with other facilities of the same or smaller size, or for the installation, maintenance, and replacement of micro wireless facilities strung on cables (Section 67.5113).

Authorities shall allow small wireless facility collocation on authority owned poles and wireless support structures outside of right-of-ways in the same manner that the authority permits access for other commercial projects (Section 67.5114).

Any individual with an interest in an authority owned pole shall not enter into any exclusivity agreement interfering with small wireless facility collocation. Permitting and fees for make-ready work are restricted in the bill to competitively neutral terms, along with various other limitations as provided in the bill (Section 67.5115).

An authority shall only charge a wireless provider a rate or fee if such a rate or fee is also required by the authority for similar work. Right-of-way permit fees shall be non-discriminatory and competitively neutral. The total fee for the installation, modification, or replacement of a utility pole and the collocation of a small wireless facility shall not exceed \$250 per pole, and no collocation rate shall exceed \$50 per authority owned pole (Section 67.5116).

The Uniform Small Wireless Facility Deployment Act shall not be interpreted to allow any entity to provide cable services without complying any other applicable laws (Section 67.5117).

An authority's zoning authority shall not extend to the engineering, construction, or design of any small wireless facility located in a structure on any campus, stadium, or athletic facility not owned or controlled by the authority, and nothing in the Uniform Small Wireless Facility Deployment Act authorizes Missouri or authorities to regulate wireless services (Section 67.5118).

Within the later of two months after August 28, 2018, or two months after receiving a request from a wireless provider, an authority shall adopt an ordinance or agreement that presents all of the rates, fees, and other terms that a provider may be subject to in compliance with the Uniform Small Wireless Facility Deployment Act.

Within the later of three months after August 28, 2018, or three months after receiving a request from a wireless provider, each municipal electric utility shall adopt a standard pole attachment agreement. Every agreement shall be considered a public record, and be substantially complete such that any wireless communications service provider or communications service provider may accept it with little negotiation (Section 67.5119).

The bill also directs authorities to adopt indemnification insurance and bonding requirements for small wireless facilities with various enumerated requisites. Bonding shall not exceed \$1,500 per small wireless facility, and the total bond amount for multiple wireless facilities within a single authority's jurisdiction shall not exceed \$75,000 (Section 67.5121).

PROPOSERS: Supporters say that the bill streamlines the small

wireless facility deployment process by overcoming the hurdles involved with multiple and possibly conflicting local ordinances. Data deployment and access is critical for public safety and health, not just convenience and entertainment.

Testifying for the bill were Representative Rhoads; At&T; Verizon; and Sprint Corporation.

OPPONENTS: Those who oppose the bill say that existing statutory definitions should be used unless there is a true, technological reason for a different definition. The bill opens the right-of-way to all wireless services providers and contractors to the detriment of other users. Small wireless facilities deployment involves a multitude of safety and locale specific factors that are better addressed in interactions between cities and wireless services providers rather than through a peremptory state framework. Collocation fees should be based on a market price model as opposed to a state limited fee.

Testifying against the bill were Bill Ojile, Municipal League of Metro St Louis; Missouri Cable Telecommunications Association; Ryan Moehlman, City of Jefferson; Missouri Association of Municipal Utilities; Mark Petty, Kirkwood Electric; Lauren Palmer, City of Independence; Kyle McClure, City Utilities of Springfield; and the City of St Peters.