

SS SCS HCS HB 1991 -- WIRELESS FACILITIES INFRASTRUCTURE

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. Municipal electric utilities are excluded from the definition of "authority."

Authorities shall 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 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 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 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 as specified in the bill. Authorities shall not limit the placement of small wireless facilities with minimum horizontal distances. 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. However, municipal electric utilities may require a permit or fee for small wireless facilities that are strung on cables between utility poles (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 application for the collocation of a small wireless facility shall not exceed \$100 per pole. The collocation rate shall not exceed \$150 per pole per year (Section 67.5116).

The act shall not be interpreted to allow any entity to provide cable services without complying with 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 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 act (Section 67.5119).

The bill also permits 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).

The act shall expire on January 1, 2021, except that then-existing small wireless facilities permits or collocations shall continue until the end of their respective terms (Section 67.5122).

By December 31, 2018, the Department of Revenue shall report to the General Assembly on the amount of revenue collected by local governments from communication service, direct-to-home satellite service, and video service providers from the previous three fiscal years (Section 67.5125).

The Uniform Small Wireless Facility Deployment Act has a delayed effective date until January 1, 2019.