



320990

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2017	.	
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The Committee on Rules (Hutson) recommended the following:

1 **Senate Amendment to Amendment (219028) (with title**
2 **amendment)**

3
4 Delete lines 54 - 414
5 and insert:
6 45 days after the date of the waiver request.

7 3. "Applicant" means a person who submits an application
8 and is a wireless provider.

9 4. "Application" means a request submitted by an applicant
10 to an authority for a permit to collocate small wireless
11 facilities.



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12 5. "Authority" means a county or municipality having
13 jurisdiction and control of the rights-of-way of any public
14 roads. The term does not include the Florida Department of
15 Transportation. The Florida Department of Transportation rights-
16 of-way are excluded from this subsection.

17 6. "Authority utility pole" means a utility pole owned by
18 an authority in the right-of-way. The term does not include a
19 utility pole owned by a municipal electric utility or any
20 utility pole used to support municipally owned or operated
21 electric distribution facilities, or a utility pole located in
22 the right-of-way within:

23 a. A retirement community that:

24 (I) Is deed-restricted as housing for older persons as
25 defined in s. 760.29(4) (b);

26 (II) Has more than 5,000 residents; and

27 (III) Has underground utilities for electric transmission
28 or distribution; or

29 b. A municipality that:

30 (I) Is located on a coastal barrier island as defined in s.
31 161.053(1) (b) 3.;

32 (II) Has a land area of less than 5 square miles;

33 (III) Has fewer than 10,000 residents; and

34 (IV) Has, before the adoption of this act, received
35 referendum approval to issue debt to finance municipality-wide
36 underground utilities for electric transmission or distribution.

37 7. "Collocate" or "collocation" means to install, mount,
38 maintain, modify, operate, or replace one or more wireless
39 facilities on, under, within, or adjacent to a wireless support
40 structure or utility pole. The term does not include the



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41 installation of a utility pole or wireless support structure in
42 the public rights-of-way.

43 8. "FCC" means the Federal Communications Commission.

44 9. "Micro wireless facility" means a small wireless
45 facility having dimensions no larger than 24 inches in length,
46 15 inches in width, and 12 inches in height and an exterior
47 antenna, if any, no longer than 11 inches.

48 10. "Small wireless facility" means a wireless facility
49 that meets the following qualifications:

50 a. Each antenna associated with the facility is located
51 inside an enclosure of no more than 6 cubic feet in volume or,
52 in the case of antennas that have exposed elements, each antenna
53 and all of its exposed elements could fit within an enclosure of
54 no more than 6 cubic feet in volume; and

55 b. All other wireless equipment associated with the
56 facility is cumulatively no more than 28 cubic feet in volume.
57 The following types of associated ancillary equipment are not
58 included in the calculation of equipment volume: electric
59 meters, concealment elements, telecommunications demarcation
60 boxes, ground-based enclosures, grounding equipment, power
61 transfer switches, cutoff switches, vertical cable runs for the
62 connection of power and other services, and utility poles or
63 other support structures.

64 11. "Utility pole" means a pole or similar structure used
65 in whole or in part to provide communications services or for
66 electric distribution, lighting, traffic control, signage, or a
67 similar function. The term includes the vertical support
68 structure for traffic lights, but does not include any
69 horizontal structures upon which are attached signal lights or



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70 other traffic control devices and does not include any pole or
71 similar structure 15 feet in height or less unless an authority
72 grants a waiver for the pole.

73 12. "Wireless facility" means equipment at a fixed location
74 which enables wireless communications between user equipment and
75 a communications network, including radio transceivers,
76 antennas, wires, coaxial or fiber-optic cable or other cables,
77 regular and backup power supplies, and comparable equipment,
78 regardless of technological configuration, and equipment
79 associated with wireless communications. The term includes small
80 wireless facilities. The term does not include:

81 a. The structure or improvements on, under, within, or
82 adjacent to the structure on which the equipment is collocated;

83 b. Wireline backhaul facilities; or

84 c. Coaxial or fiber-optic cable that is between wireless
85 structures or utility poles or that is otherwise not immediately
86 adjacent to or directly associated with a particular antenna.

87 13. "Wireless infrastructure provider" means a person who
88 is certificated to provide telecommunications service in the
89 state and who builds or installs wireless communication
90 transmission equipment, wireless facilities, or wireless support
91 structures, but is not a wireless services provider.

92 14. "Wireless provider" means a wireless infrastructure
93 provider or a wireless services provider.

94 15. "Wireless services" means any services provided using
95 licensed or unlicensed spectrum, whether at a fixed location or
96 mobile, using wireless facilities.

97 16. "Wireless services provider" means a person who
98 provides wireless services.



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99 17. "Wireless support structure" means a freestanding
100 structure, such as a monopole, a guyed or self-supporting tower,
101 or another existing or proposed structure designed to support or
102 capable of supporting wireless facilities. The term does not
103 include a utility pole.

104 (c) Except as provided in this subsection, an authority may
105 not prohibit, regulate, or charge for the collocation of small
106 wireless facilities in the public rights-of-way.

107 (d) An authority may require a registration process and
108 permit fees in accordance with subsection (3). An authority
109 shall accept applications for permits and shall process and
110 issue permits subject to the following requirements:

111 1. An authority may not directly or indirectly require an
112 applicant to perform services unrelated to the collocation for
113 which approval is sought, such as in-kind contributions to the
114 authority, including reserving fiber, conduit, or pole space for
115 the authority.

116 2. An applicant may not be required to provide more
117 information to obtain a permit than is necessary to demonstrate
118 the applicant's compliance with applicable codes for the
119 placement of small wireless facilities in the locations
120 identified in the application.

121 3. An authority may not require the placement of small
122 wireless facilities on any specific utility pole or category of
123 poles or require multiple antenna systems on a single utility
124 pole.

125 4. An authority may not limit the placement of small
126 wireless facilities by minimum separation distances; however,
127 within 14 days after the date of filing the application, an



128 authority may request that the proposed location of a small
129 wireless facility be moved to another location in the right-of-
130 way and placed upon an alternative authority utility pole or
131 support structure or placed upon a new utility pole. The
132 authority and applicant may negotiate the alternative location,
133 including any objective design standards, for 30 days after the
134 date of the request. At the conclusion of the negotiation
135 period, if the applicant accepts the alternative location, the
136 applicant must notify the authority, and the application shall
137 be deemed granted for any new location for which there is
138 agreement and all other locations in the application. If no
139 agreement is reached, the applicant must notify the authority,
140 and the authority must grant or deny the original application
141 within 90 days after the date the application is filed. A
142 request for an alternative location, an acceptance of an
143 alternative location, or any rejection of an alternative
144 location must be in writing and provided by electronic mail.

145 5. An authority shall limit the height of a small wireless
146 facility to no more than 10 feet above the utility pole or
147 structure upon which the small wireless facility is to be
148 collocated. Unless waived by an authority, the height for a new
149 utility pole is limited to the tallest existing utility pole
150 located in the right-of-way, other than a utility pole for which
151 a waiver has previously been granted, measured from grade in
152 place within 500 feet of the proposed location of the small
153 wireless facility. If there is no utility pole within 500 feet,
154 the authority shall limit the height of the utility pole to 50
155 feet.

156 6. Except as provided in subparagraphs 4. and 5., the



157 installation of a utility pole in the public rights-of-way
158 designed to support a small wireless facility is subject to
159 authority rules or regulations governing the placement of
160 utility poles in the public rights-of-way and is subject to the
161 application review timeframes in this subsection.

162 7. Within 14 days after receiving an application, an
163 authority must determine and notify the applicant by electronic
164 mail as to whether the application is complete. If an
165 application is deemed incomplete, the authority must
166 specifically identify the missing information. An application is
167 deemed complete if the authority fails to provide notification
168 to the applicant within 14 days.

169 8. An application must be processed on a nondiscriminatory
170 basis. A complete application is deemed approved if an authority
171 fails to approve or deny the application within 60 days after
172 receipt of the application. If an authority does not use the 30-
173 day negotiation period provided in subparagraph 4., the parties
174 may mutually agree to extend the 60-day application review
175 period. The authority must grant or deny the application at the
176 end of the extended period. A permit issued pursuant to an
177 approved application remains effective for 1 year unless
178 extended by the authority.

179 9. An authority must notify the applicant of approval or
180 denial by electronic mail. An authority must approve a complete
181 application unless it does not meet the authority's applicable
182 codes. If the application is denied, the authority must specify
183 in writing the basis for denial, including the specific code
184 provisions on which the denial was based, and send the
185 documentation to the applicant by electronic mail on the day the



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186 authority denies the application. The applicant may cure the
187 deficiencies identified by the authority and resubmit the
188 application within 30 days after notice of the denial is sent to
189 the applicant. The authority must approve or deny the revised
190 application within 30 days after receipt or the application is
191 deemed approved. Any subsequent review shall be limited to the
192 deficiencies cited in the denial.

193 10. An applicant seeking to collocate small wireless
194 facilities within the jurisdiction of a single authority may, at
195 the applicant's discretion, file a consolidated application and
196 receive a single permit for the collocation of no more than 30
197 small wireless facilities. If the application includes multiple
198 small wireless facilities, an authority may remove small
199 wireless facility collocations from the application and treat
200 separately small wireless facility collocations for which
201 incomplete information has been received or which are denied.

202 11. An authority may deny a proposed collocation of a small
203 wireless facility in the public rights-of-way if the proposed
204 collocation:

205 a. Materially interferes with the safe operation of traffic
206 control equipment.

207 b. Materially interferes with sight lines or clear zones
208 for transportation, pedestrians, or public safety purposes.

209 c. Materially interferes with compliance with the Americans
210 with Disabilities Act or similar federal or state standards
211 regarding pedestrian access or movement.

212 d. Materially fails to comply with the 2010 edition of the
213 Florida Department of Transportation Utility Accommodation
214 Manual.



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215 e. Fails to comply with applicable codes.

216 12. An authority may adopt by ordinance provisions for
217 registration, permitting, insurance coverage, indemnification,
218 performance bonds, security funds, force majeure, abandonment,
219 authority liability, or authority warranties. Such provisions
220 must be reasonable and nondiscriminatory.

221 13. Collocation of a small wireless facility on an
222 authority utility pole may not provide the basis for the
223 imposition of an ad valorem tax on the authority utility pole.

224 14. An authority may reserve space on authority utility
225 poles for future public safety uses. However, a reservation of
226 space may not preclude collocation of a small wireless facility.
227 If replacement of the authority utility pole is necessary to
228 accommodate the collocation of the small wireless facility and
229 the future public safety use, the pole replacement is subject to
230 make-ready provisions, and the replaced pole shall accommodate
231 the future public safety use.

232 15. Any structure granted a permit and installed pursuant
233 to this subsection must comply with chapter 333 and federal
234 regulations pertaining to airport airspace protections.

235 (e) An authority may not require approval of or impose fees
236 or other charges for:

237 1. Routine maintenance;

238 2. Replacement of existing wireless facilities with
239 wireless facilities that are substantially similar or of the
240 same or smaller size; or

241 3. Installation, placement, maintenance, or replacement of
242 micro wireless facilities suspended on cables strung between
243 existing utility poles in compliance with applicable codes by a



244 communications service provider authorized to occupy the rights-
245 of-way and who is remitting taxes under chapter 202.

246
247 However, notwithstanding this paragraph, an authority may
248 require a right-of-way permit for work that involves excavation,
249 closing a sidewalk, or closing a vehicular lane.

250 (f) Collocation of small wireless facilities on authority
251 utility poles is subject to the following requirements:

252 1. An authority may not enter into an exclusive arrangement
253 with any person for the right to attach equipment to authority
254 utility poles.

255 2. The rates and fees for collocations on authority utility
256 poles must be nondiscriminatory, regardless of the services
257 provided by the collocating person.

258 3. The rate to collocate small wireless facilities on
259 authority utility poles may not exceed \$100 per year.

260 4. Agreements between authorities and wireless providers
261 which are in effect on July 1, 2017, and which relate to the
262 collocation of small wireless facilities in the right-of-way,
263 including the collocation of small wireless facilities on
264 authority utility poles, remain in effect, subject to applicable
265 termination provisions. The wireless provider may accept the
266 rates, fees, and terms established under this subsection for
267 small wireless facilities and utility poles that are the subject
268 of an application submitted after the rates, fees, and terms
269 become effective.

270 5. A person owning or controlling an authority utility pole
271 shall offer rates, fees, and other terms that comply with this
272 subsection. By the later of January 1, 2018, or 3 months after



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273 receiving a request to collocate its first small wireless
274 facility on a utility pole owned or controlled by an authority,
275 the person owning or controlling the authority utility pole
276 shall make available, through ordinance or otherwise, rates,
277 fees, and terms for the collocation of small wireless facilities
278 on the authority utility pole which comply with this subsection.

279 a. The rates, fees, and terms must be nondiscriminatory,
280 competitively neutral, and must comply with this subsection.

281 b. For an authority utility pole that supports an aerial
282 facility used to provide communications services or electric
283 service, the parties shall comply with the process for make-
284 ready work under 47 U.S.C. s. 224 and implementing regulations.
285 The good faith estimate of the person owning or controlling the
286 pole for any make-ready work necessary to enable the pole to
287 support the requested collocation must include pole replacement
288 if necessary.

289 c. For an authority utility pole that does not support an
290 aerial facility used to provide communications services or
291 electric service, the authority shall provide a good faith
292 estimate for any make-ready work necessary to enable the pole to
293 support the requested collocation, including necessary pole
294 replacement, within 60 days after receipt of a complete
295 application. Make-ready work, including any pole replacement,
296 must be completed within 60 days after written acceptance of the
297 good faith estimate by the applicant. Alternatively, an
298 authority may require the applicant seeking to collocate a small
299 wireless facility to provide a make-ready estimate at the
300 applicant's expense for the work necessary to support the small
301 wireless facility, including pole replacement, and to perform



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302 the make-ready work. If pole replacement is required, the scope
303 of the make-ready estimate is limited to the design,
304 fabrication, and installation of a utility pole that is
305 substantially similar in color and composition. The authority
306 may not impose conditions on or restrict the manner in which the
307 applicant obtains, develops, or provides the estimate or
308 conducts the make-ready work subject to usual construction
309 restoration standards for work in the right-of-way. The replaced
310 or altered utility pole shall remain the property of the
311 authority.

312 d. An authority may not require more make-ready work than
313 is required to meet applicable codes or industry standards. Fees
314 for make-ready work may not include costs related to preexisting
315 damage or prior noncompliance. Fees for make-ready work,
316 including any pole replacement, may not exceed actual costs or
317 the amount charged to communications service providers other
318 than wireless services providers for similar work and may not
319 include any consultant fee or expense.

320 (g) For any applications filed before the effective dates
321 of ordinances implementing this subsection, an authority may
322 apply current ordinances regulating the placement of
323 communications facilities in the right-of-way, including
324 registration, permitting, insurance coverage, indemnification,
325 performance bonds, security funds, force majeure, abandonment,
326 authority liability, or authority warranties. Permit application
327 requirements and small wireless facility placement requirements,
328 including utility pole height limits, which conflict with this
329 subsection shall be waived by the authority.

330 (h) Except as provided in this section or specifically



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331 required by state law, an authority may not adopt or enforce any
332 regulation on the placement or operation of communications
333 facilities in the rights-of-way by a provider authorized by
334 state law to operate in the rights-of-way and may not regulate
335 any communications services or impose or collect any tax, fee,
336 or charge not specifically authorized under state law. This
337 paragraph is not intended to change state law regarding an
338 authority's ability to regulate the relocation of facilities.

339 (i) A wireless provider shall, in relation to a small
340 wireless facility, utility pole, or wireless support structure
341 in the public rights-of-way, comply with nondiscriminatory
342 undergrounding requirements of the authority which prohibit
343 above-ground structures in public rights-of-way. Any such
344 requirements may be waived by the relevant authority.

345 (j) A wireless infrastructure provider may apply to an
346 authority to place utility poles in the public rights-of-way to
347 support the collocation of small wireless facilities. The
348 application must include an attestation that small wireless
349 facilities will be collocated on the utility pole or structure
350 and small wireless facilities will be used by a wireless
351 services provider to provide service within 9 months from the
352 date the application is granted. An authority shall accept and
353 process the application in accordance with subparagraph (7)(d)6.
354 and any applicable codes and other local codes governing the
355 placement of utility poles in the public rights-of-way.

356 (k) This subsection does not limit a local government's
357 authority to enforce historic preservation zoning regulations
358 consistent with the preservation of local zoning authority under
359 47 U.S.C s. 332(c)(7), the requirements for facility



360 modifications under 47 U.S.C. s. 1455(a), or the National
361 Historic Preservation Act of 1966, as amended, and the
362 regulations adopted to implement these laws. An authority may
363 enforce local pending ordinances or administrative rules or
364 regulations that are applicable to a historic area designated by
365 the state or authority and subject to waiver by the authority if
366 the intent to adopt regulation or zoning changes has been
367 publicly declared on or before April 1, 2017.

368
369 ===== T I T L E A M E N D M E N T =====

370 And the title is amended as follows:

371 Delete lines 518 - 533

372 and insert:

373 authorized under state law; providing construction;
374 requiring a wireless provider to comply with certain
375 nondiscriminatory undergrounding requirements of the
376 authority; authorizing the authority to waive any such
377 requirements; authorizing a wireless infrastructure
378 provider to apply to an authority to place utility
379 poles in the public rights-of-way to support the
380 collocation of small wireless facilities; providing
381 requirements for such application; requiring the
382 authority to accept and process the application,
383 subject to certain requirements; providing
384 construction; authorizing an authority to enforce
385 local pending ordinances or administrative regulations
386 that are applicable to a historic area designated by
387 the state or authority and subject to waiver by the
388 authority if the intent to adopt regulation or zoning



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changes has been publicly declared on or before a
specified date; providing retroactive applicability;
providing an effective date.