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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2017	.	
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The Committee on Governmental Oversight and Accountability
(Baxley) recommended the following:

Senate Amendment to Amendment (561176)

Delete lines 59 - 285
and insert:
utility pole owned by a municipal electric utility, any utility
pole used to support municipally owned or operated electric
distribution facilities, or a utility pole located in the right-
of-way within a retirement community that:
a. Is deed-restricted as housing for older persons as
defined in s. 760.29(4)(b);



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11 b. Has more than 5,000 residents; and

12 c. Has underground utilities for electric transmission or
13 distribution.

14 7. "Collocate" or "collocation" means to install, mount,
15 maintain, modify, operate, or replace one or more wireless
16 facilities on, under, within, or adjacent to a wireless support
17 structure or utility pole.

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

19 9. "Micro wireless facility" means a small wireless
20 facility having dimensions no larger than 24 inches in length,
21 15 inches in width, and 12 inches in height and an exterior
22 antenna, if any, no longer than 11 inches.

23 10. "Small wireless facility" means a wireless facility
24 that meets the following qualifications:

25 a. Each antenna associated with the facility is located
26 inside an enclosure of no more than 6 cubic feet in volume or,
27 in the case of antennas that have exposed elements, each antenna
28 and all of its exposed elements could fit within an enclosure of
29 no more than 6 cubic feet in volume; and

30 b. All other wireless equipment associated with the
31 facility is cumulatively no more than 28 cubic feet in volume.
32 The following types of associated ancillary equipment are not
33 included in the calculation of equipment volume: electric
34 meters, concealment elements, telecommunications demarcation
35 boxes, ground-based enclosures, grounding equipment, power
36 transfer switches, cutoff switches, vertical cable runs for the
37 connection of power and other services, and utility poles or
38 other support structures.

39 11. "Utility pole" means a pole or similar structure that



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40 is used in whole or in part to provide communications services
41 or for electric distribution, lighting, traffic control,
42 signage, or a similar function.

43 12. "Wireless facility" means equipment at a fixed location
44 which enables wireless communications between user equipment and
45 a communications network, including radio transceivers,
46 antennas, wires, coaxial or fiber-optic cable or other cables,
47 regular and backup power supplies, and comparable equipment,
48 regardless of technological configuration, and equipment
49 associated with wireless communications. The term includes small
50 wireless facilities. The term does not include:

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

53 b. Wireline backhaul facilities; or

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

57 13. "Wireless infrastructure provider" means a person who
58 is certificated to provide telecommunications service in the
59 state and who builds or installs wireless communication
60 transmission equipment, wireless facilities, or wireless support
61 structures, but is not a wireless services provider.

62 14. "Wireless provider" means a wireless infrastructure
63 provider or a wireless services provider.

64 15. "Wireless services" means any services provided using
65 licensed or unlicensed spectrum, whether at a fixed location or
66 mobile, using wireless facilities.

67 16. "Wireless services provider" means a person who
68 provides wireless services.



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69 17. "Wireless support structure" means a freestanding
70 structure, such as a monopole, a guyed or self-supporting tower,
71 a billboard, or another existing or proposed structure designed
72 to support or capable of supporting wireless facilities. The
73 term does not include a utility pole.

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

77 (d) An authority may require permit fees only in accordance
78 with subsection (3). An authority shall accept applications for
79 permits and shall process and issue permits subject to the
80 following requirements:

81 1. An authority may not directly or indirectly require an
82 applicant to perform services unrelated to the collocation for
83 which approval is sought, such as in-kind contributions to the
84 authority, including reserving fiber, conduit, or pole space for
85 the authority.

86 2. An applicant may not be required to provide more
87 information to obtain a permit than is required of electric
88 service providers and other communications service providers
89 that are not wireless services providers.

90 3. An authority may not require the placement of small
91 wireless facilities on any specific utility pole or category of
92 poles or require multiple antenna systems on a single utility
93 pole.

94 4. An authority may not limit the placement of small
95 wireless facilities by minimum separation distances.

96 5. An authority may limit the height of a small wireless
97 facility to be no more than 10 feet above the tallest existing



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98 utility pole within 500 feet, measured from grade in place, of
99 the proposed location of the small wireless facility. If there
100 is no utility pole within 500 feet, the authority may limit the
101 height of the small wireless facility to be no more than 60
102 feet. The height limitations do not apply to the placement of
103 any small wireless facility on a utility pole or wireless
104 support structure constructed on or before June 30, 2017, if the
105 small wireless facility does not extend more than 10 feet above
106 the structure.

107 6. A wireless infrastructure provider may apply to an
108 authority to place utility poles or wireless support structures
109 in the public rights-of-way to support the collocation of small
110 wireless facilities. The application must include an attestation
111 that small wireless facilities will be collocated on the utility
112 pole or structure and small wireless facilities will be used by
113 a wireless services provider to provide service within 9 months
114 after the date the application is granted. An authority shall
115 accept and process the application in accordance with this
116 paragraph and any applicable local codes governing the placement
117 of utility poles in the public rights-of-way.

118 7. Within 10 days after receiving an application, an
119 authority must determine and notify the applicant by electronic
120 mail as to whether the application is complete. If an
121 application is deemed incomplete, the authority must
122 specifically identify the missing information. An application is
123 deemed complete if the authority fails to provide notification
124 to the applicant within 10 days or when all documents,
125 information, and fees specifically enumerated in the authority's
126 permit application form are submitted by the applicant to the



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127 authority.

128 8. An application must be processed on a nondiscriminatory
129 basis. A complete application is deemed approved if an authority
130 fails to approve or deny the application within 60 days after
131 receipt of the application.

132 9. An authority must notify the applicant of approval or
133 denial by electronic mail. An authority shall approve a complete
134 application unless it does not meet the authority's applicable
135 codes. If the application is denied, the authority must specify
136 in writing the basis for denial, including the specific code
137 provisions on which the denial was based, and send the
138 documentation to the applicant by electronic mail on the day the
139 authority denies the application. The applicant may cure the
140 deficiencies identified by the authority and resubmit the
141 application within 30 days after notice of the denial is sent to
142 the applicant. The authority shall approve or deny the revised
143 application within 30 days after receipt or the application is
144 deemed approved. Any subsequent review shall be limited to the
145 deficiencies cited in the denial.

146 10. An applicant seeking to collocate small wireless
147 facilities within the jurisdiction of a single authority may, at
148 the applicant's discretion, file a consolidated application and
149 receive a single permit for the collocation of multiple small
150 wireless facilities.

151 (e) An authority may not require approval, fees, or other
152 charges for:

153 1. Routine maintenance;

154 2. Replacement of existing wireless facilities with
155 wireless facilities that are substantially similar or of the



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156 same or smaller size; or
157 3. Installation, placement, maintenance, or replacement of
158 micro wireless facilities that are suspended on cables strung
159 between existing utility poles in compliance with applicable
160 codes by a communications service provider that is authorized to
161 occupy the rights-of-way and that is remitting taxes under
162 chapter 202.
163 (f) An authority shall approve the collocation of small
164 wireless facilities on authority utility poles, subject to the
165 following requirements:
166 1. An authority may not enter into an exclusive arrangement
167 with any person for the right to attach equipment to authority
168 utility poles.
169 2. The rates and fees for collocations on authority utility
170 poles must be nondiscriminatory, regardless of the services
171 provided by the collocating person.
172 3. The rate to collocate equipment on authority utility
173 poles may not exceed the lesser of the annual recurring rate
174 that would be permitted under rules adopted by the FCC under 47
175 U.S.C. s. 224(d) if the collocation rate were regulated by the
176 FCC or \$15 per year per authority utility pole.
177 4. If an authority has an existing pole attachment rate,
178 fee, or other term that does not comply with this subsection,
179 the authority shall, no later than January 1, 2018, revise such
180 rate, fee, or term to be in compliance with this subsection.
181 5. A person owning or controlling an authority utility pole
182 shall offer rates, fees, and other terms that comply with this
183 subsection. By the later of January 1, 2018, or 3 months after
184 receiving a request to collocate its first small wireless



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185 facility on a utility pole owned or controlled by an authority,
186 the person owning or controlling the authority utility pole
187 shall make available, through ordinance or otherwise, rates,
188 fees, and terms for the collocation of small wireless facilities
189 on the authority utility pole which comply with this subsection.

190 a. The rates, fees, and terms must be nondiscriminatory,
191 competitively neutral, and commercially reasonable and must
192 comply with this subsection.

193 b. For an authority utility pole that supports an aerial
194 facility used to provide communications services or electric
195 service, the parties shall comply with the process for make-
196 ready work under 47 U.S.C. s. 224 and implementing regulations.
197 The good faith estimate of the person owning or controlling the
198 pole for any make-ready work necessary to enable the pole to
199 support the requested collocation must include pole replacement
200 if necessary.

201 c. For an authority utility pole that does not support an
202 aerial facility used to provide communications services or
203 electric service, the authority shall provide a good faith
204 estimate for any make-ready work necessary to enable the pole to
205 support the requested collocation, including necessary pole
206 replacement, within 60 days after receipt of a complete
207 application. Make-ready work, including any pole replacement,
208 must be completed within 60 days after written acceptance of the
209 good faith estimate by the applicant.

210 d. An authority may not require more make-ready work than
211 is required to meet applicable codes or industry standards. Fees
212 for make-ready work may not include costs related to preexisting
213 damage or prior noncompliance. Fees for make-ready work,



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214 including any pole replacement, may not exceed actual costs or
215 the amount charged to communications service providers other
216 than wireless services providers for similar work and may not
217 include any consultant fee or expense.

218 (g) Except as provided in this chapter or specifically
219 required by state law, an authority may not adopt or enforce any
220 regulation on the placement or operation of communications
221 facilities in the rights-of-way by a provider authorized by
222 state law to operate in the rights-of-way and may not regulate
223 any communications services or impose or collect any tax, fee,
224 or charge not specifically authorized under state law.

225 (h) This subsection does not authorize a person to
226 collocate small wireless facilities on a privately owned utility
227 pole, a utility pole owned by an electric cooperative or by a
228 municipal electric utility, a privately owned wireless support
229 structure, or other private property without the consent of the
230 property owner.

231 (i) This subsection does not authorize a person to
232 collocate or attach small wireless facilities or micro wireless
233 facilities on a utility pole or erect a wireless support
234 structure in the right-of-way located within a retirement
235 community that:

236 a. Is deed-restricted as housing for older persons as
237 defined in s. 760.29(4) (b);

238 b. Has more than 5,000 residents; and

239 c. Has underground utilities for electric transmission or
240 distribution.

241 (j) This subsection may not be construed to limit a local
242 government's authority to enforce historic preservation zoning



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243 regulations consistent with the preservation of local zoning
244 authority under 47 U.S.C s. 332(c)(7), the requirements for
245 facility modifications under 47 U.S.C. s. 1455(a), or the
246 National Historic Preservation Act of 1966, as amended; and the
247 regulations adopted to implement these laws.