

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee

3 Representative La Rosa offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (7) is added to section 337.401,
8 Florida Statutes, to read:

9 337.401 Use of right-of-way for utilities subject to
10 regulation; permit; fees.—

11 (7) (a) This subsection may be cited as the "Advanced
12 Wireless Infrastructure Deployment Act."

13 (b) As used in this subsection, the term:

14 1. "Antenna" means communications equipment that transmits
15 or receives electromagnetic radio frequency signals used in
16 providing wireless services.

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17 2. "Applicable codes" means uniform building, fire,
18 electrical, plumbing, or mechanical codes adopted by a
19 recognized national code organization, or local amendments to
20 those codes, enacted solely to address threats of destruction of
21 property or injury to persons. The term includes local
22 government historic preservation zoning regulations consistent
23 with the preservation of local zoning authority under 47 U.S.C
24 s. 332(c)(7), the requirements for facility modifications under
25 47 U.S.C. s. 1455(a), or the National Historic Preservation Act
26 of 1966, as amended, and the regulations adopted to implement
27 these laws.

28 3. "Applicant" means a person who submits an application
29 and is a wireless provider.

30 4. "Application" means a request submitted by an applicant
31 to an authority for a permit to collocate small wireless
32 facilities.

33 5. "Authority utility pole" means a utility pole owned by
34 an authority in the right-of-way. The term does not include a
35 utility pole owned by a municipal electric utility or any
36 utility pole used to support municipally owned or operated
37 electric distribution facilities.

38 6. "Collocate" or "collocation" means to install, mount,
39 maintain, modify, operate, or replace one or more wireless
40 facilities on, under, within, or adjacent to a wireless support
41 structure or utility pole.

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42 7. "FCC" means the Federal Communications Commission.

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

47 9. "Small wireless facility" means a wireless facility that
48 meets the following qualifications:

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

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

63 10. "Utility pole" means a pole or similar structure that
64 is used in whole or in part to provide communications services
65 or for electric distribution, lighting, traffic control,
66 signage, or a similar function.

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67 11. "Wireless facility" means equipment at a fixed location
68 which enables wireless communications between user equipment and
69 a communications network, including radio transceivers,
70 antennas, wires, coaxial or fiber-optic cable or other cables,
71 regular and backup power supplies, and comparable equipment,
72 regardless of technological configuration, and equipment
73 associated with wireless communications. The term includes small
74 wireless facilities. The term does not include:

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

77 b. Wireline backhaul facilities; or

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

81 12. "Wireless infrastructure provider" means a person who
82 is certificated to provide telecommunications service in the
83 state and who builds or installs wireless communication
84 transmission equipment, wireless facilities, or wireless support
85 structures, but is not a wireless services provider.

86 13. "Wireless provider" means a wireless infrastructure
87 provider or a wireless services provider.

88 14. "Wireless services" means any services provided using
89 licensed or unlicensed spectrum, whether at a fixed location or
90 mobile, using wireless facilities.

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91 15. "Wireless services provider" means a person who
92 provides wireless services.

93 16. "Wireless support structure" means a freestanding
94 structure, such as a monopole, a guyed or self-supporting tower,
95 a billboard, or another existing or proposed structure designed
96 to support or capable of supporting wireless facilities. The
97 term does not include a utility pole.

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

101 (d) An authority may require permit fees only in accordance
102 with subsection (3). An authority shall accept applications for
103 permits and shall process and issue permits subject to the
104 following requirements:

105 1. An authority may not directly or indirectly require an
106 applicant to perform services unrelated to the collocation for
107 which approval is sought, such as in-kind contributions to the
108 authority, including reserving fiber, conduit, or pole space for
109 the authority.

110 2. An applicant may not be required to provide more
111 information to obtain a permit than is required of electric
112 service providers and other communications service providers
113 that are not wireless services providers.

114 3. An authority may not require the placement of small
115 wireless facilities on any specific utility pole or category of

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116 | poles or require multiple antenna systems on a single utility
117 | pole.

118 | 4. An authority may not limit the placement of small
119 | wireless facilities by minimum separation distances or a maximum
120 | height limitation; however, an authority may limit the height of
121 | a small wireless facility to no more than 10 feet above the
122 | tallest existing utility pole, measured from grade in place
123 | within 500 feet of the proposed location of the small wireless
124 | facility. If there is no utility pole within 500 feet, the
125 | authority may limit the height of the small wireless facility to
126 | no more than 60 feet. The height limitations do not apply to the
127 | placement of any small wireless facility on a utility pole or
128 | wireless support structure constructed on or before June 30,
129 | 2017, if the small wireless facility does not extend more than
130 | 10 feet above the structure.

131 | 5. Within 10 days after receiving an application, an
132 | authority must determine and notify the applicant by electronic
133 | mail as to whether the application is complete. If an
134 | application is deemed incomplete, the authority must
135 | specifically identify the missing information. An application is
136 | deemed complete if the authority fails to provide notification
137 | to the applicant within 10 days or when all documents,
138 | information, and fees specifically enumerated in the authority's
139 | permit application form are submitted by the applicant to the
140 | authority.

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141 6. An application must be processed on a nondiscriminatory
142 basis. A complete application is deemed approved if an authority
143 fails to approve or deny the application within 60 days after
144 receipt of the application.

145 7. An authority must notify the applicant of approval or
146 denial by electronic mail. An authority shall approve a complete
147 application unless it does not meet the authority's applicable
148 codes. If the application is denied, the authority must specify
149 in writing the basis for denial, including the specific code
150 provisions on which the denial was based, and send the
151 documentation to the applicant by electronic mail on the day the
152 authority denies the application. The applicant may cure the
153 deficiencies identified by the authority and resubmit the
154 application within 30 days after notice of the denial is sent to
155 the applicant. The authority shall approve or deny the revised
156 application within 30 days after receipt or the application is
157 deemed approved. Any subsequent review shall be limited to the
158 deficiencies cited in the denial.

159 8. An applicant seeking to collocate small wireless
160 facilities within the jurisdiction of a single authority may, at
161 the applicant's discretion, file a consolidated application and
162 receive a single permit for the collocation of multiple small
163 wireless facilities.

164 (e) An authority may not require approval or require fees
165 or other charges for:

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166 1. Routine maintenance;

167 2. Replacement of existing wireless facilities with
168 wireless facilities that are substantially similar or of the
169 same or smaller size; or

170 3. Installation, placement, maintenance, or replacement of
171 micro wireless facilities that are suspended on cables strung
172 between existing utility poles in compliance with applicable
173 codes by a communications service provider authorized to occupy
174 the rights-of-way and who is remitting taxes under chapter 202.

175 (f) An authority shall approve the collocation of small
176 wireless facilities on authority utility poles, subject to the
177 following requirements:

178 1. An authority may not enter into an exclusive arrangement
179 with any person for the right to attach equipment to authority
180 utility poles.

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

184 3. The rate to collocate equipment on authority utility
185 poles may not exceed the lesser of the annual recurring rate
186 that would be permitted under rules adopted by the FCC under 47
187 U.S.C. s. 224(d) if the collocation rate were regulated by the
188 FCC or \$15 per year per authority utility pole.

189 4. If an authority has an existing pole attachment rate,
190 fee, or other term that does not comply with this subsection,

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191 the authority shall, no later than January 1, 2018, revise such
192 rate, fee, or term to be in compliance with this subsection.

193 5. A person owning or controlling an authority utility pole
194 shall offer rates, fees, and other terms that comply with this
195 subsection. By the later of January 1, 2018, or 3 months after
196 receiving a request to collocate its first small wireless
197 facility on a utility pole owned or controlled by an authority,
198 the person owning or controlling the authority utility pole
199 shall make available, through ordinance or otherwise, rates,
200 fees, and terms for the collocation of small wireless facilities
201 on the authority utility pole which comply with this subsection.

202 a. The rates, fees, and terms must be nondiscriminatory,
203 competitively neutral, and commercially reasonable and must
204 comply with this subsection.

205 b. For an authority utility pole that supports an aerial
206 facility used to provide communications services or electric
207 service, the parties shall comply with the process for make-
208 ready work under 47 U.S.C. s. 224 and implementing regulations.
209 The good faith estimate of the person owning or controlling the
210 pole for any make-ready work necessary to enable the pole to
211 support the requested collocation must include pole replacement
212 if necessary.

213 c. For an authority utility pole that does not support an
214 aerial facility used to provide communications services or
215 electric service, the authority shall provide a good faith

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216 estimate for any make-ready work necessary to enable the pole to
217 support the requested collocation, including necessary pole
218 replacement, within 60 days after receipt of a complete
219 application. Make-ready work, including any pole replacement,
220 must be completed within 60 days after written acceptance of the
221 good faith estimate by the applicant.

222 d. An authority may not require more make-ready work than
223 is required to meet applicable codes or industry standards. Fees
224 for make-ready work may not include costs related to preexisting
225 damage or prior noncompliance. Fees for make-ready work,
226 including any pole replacement, may not exceed actual costs or
227 the amount charged to communications service providers other
228 than wireless services providers for similar work and may not
229 include any consultant fee or expense.

230 (g) Except as provided in this chapter or specifically
231 required by state law, an authority may not adopt or enforce any
232 regulation on the placement or operation of communications
233 facilities in the rights-of-way by a provider authorized by
234 state law to operate in the rights-of-way and may not regulate
235 any communications services or impose or collect any tax, fee,
236 or charge not specifically authorized under state law.

237 (h) This subsection does not authorize a person to
238 collocate small wireless facilities on a privately owned utility
239 pole, a utility pole owned by an electric cooperative or a
240 municipal electric utility, a privately owned wireless support

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241 structure, or other private property without the consent of the
242 property owner.

243 (i) This subsection may not be construed to limit local
244 governments' authority to enforce historic preservation zoning
245 regulations consistent with the preservation of local zoning
246 authority under 47 U.S.C s. 332(c)(7), the requirements for
247 facility modifications under 47 U.S.C. s.1455(a), or the
248 National Historic Preservation Act of 1966, as amended, and the
249 regulations adopted to implement these laws.

250 Section 2. This act shall take effect July 1, 2017.

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T I T L E A M E N D M E N T

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Remove everything before the enacting clause and insert:

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An act relating to utilities; amending s. 337.401, F.S.;

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providing a short title; defining terms; prohibiting the

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Department of Transportation and certain local governmental

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entities, collectively referred to as the "authority," from

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prohibiting, regulating, or charging for the collocation of

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small wireless facilities in public rights-of-way under

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certain circumstances; authorizing an authority to require

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permit fees only under certain circumstances; requiring an

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authority to receive and process applications for permits,

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and to issue such permits, subject to specified

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requirements; providing that height limitations do not

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266 apply to the placement of small wireless facilities on or
267 before a specified date under certain circumstances;
268 prohibiting an authority from requiring approval or charges
269 for routine maintenance, the replacement of certain
270 wireless facilities, or the installation, placement,
271 maintenance, or replacement of certain micro wireless
272 facilities; requiring an authority to approve the
273 collocation of small wireless facilities on authority
274 utility poles, subject to certain requirements; providing
275 requirements for rates, fees, and other terms related to
276 authority utility poles; prohibiting an authority from
277 adopting or enforcing any regulation on the placement or
278 operation of certain communications facilities and from
279 regulating any communications services or imposing or
280 collecting any tax, fee, or charge not specifically
281 authorized under state law; providing construction;
282 providing an effective date.