

Committee on Communications, Energy, And Public Utilities

CS/CS/HB 687 — Utilities

by Commerce Committee; Energy and Utilities Subcommittee; and Rep. La Rosa and others (CS/CS/CS/SB 596 by Rules Committee; Governmental Oversight and Accountability Committee; Communications, Energy, and Public Utilities Committee; and Senators Hutson, Young, and Broxson)

The bill creates the Advanced Wireless Infrastructure Deployment Act (Act), which provides for the collocation of small wireless facilities on an authority utility pole. An authority is a county or municipality having jurisdiction and control of the rights-of-way of any public road. A utility pole is not a utility pole in the sense of a municipal electric utility pole, but rather is a pole or similar structure that is used to provide lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights, but does not include any horizontal structures upon which traffic control devices are attached. It does not include any pole or similar structure 15 feet in height or less.

An authority may adopt by ordinance reasonable and nondiscriminatory provisions for registration, permitting, insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, authority liability, or authority warranties. The collocation process begins with a wireless service provider filing an application for a permit with an authority. An authority must issue permits subject to the following restrictions or requirements:

- An authority may not require placement of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole.
- An authority may not limit the placement of small wireless facilities by minimum separation distances, but may request that the proposed location of a small wireless facility be moved to another location in the right-of-way, placed upon an alternative authority utility pole or support structure, or placed upon a new utility pole.
- A small wireless facility can be no higher than 10 feet above the utility pole or structure upon which the facility is to be collocated. A new utility pole can be no higher than the tallest existing utility pole located in the right-of-way within 500 feet of the proposed location, or, if there is no utility pole within 500 feet, no higher than 50 feet.
- An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may file a consolidated application and receive a single permit for the collocation of no more than 30 small wireless facilities.
- An authority has 14 days after receiving an application to determine whether the application is complete and notify the applicant by electronic mail. If an authority deems an application incomplete, the authority must specifically identify the missing information. If the authority fails to provide notification to the applicant within the 14 days, the application is deemed complete.
- If the authority fails to approve or deny a complete application within 60 days after receipt of the application, the application is deemed approved.
- The authority must approve a complete application unless it does not meet the authority's applicable codes.

An applicant may request a waiver of these design standards upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense, and the waiver must be granted or denied within 45 days after the date of the waiver request. If an authority denies an application, the authority must specify in writing the basis for denial, including the specific code provisions on which the denial was based, and the applicant has 30 days after notice of the denial to cure the identified deficiencies and resubmit the application. The authority must approve or deny the revised application within 30 days after receipt or the application will be deemed approved.

The collocation fee cannot exceed \$150 per year.

The Act does not authorize a person to collocate small wireless facilities, to attach micro wireless facilities, or to put up a wireless support structure in the right-of-way located within a retirement community, a municipality located on a coastal barrier island, or a homeowners' association; with criteria specified for each type of location.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 33-1; House 110-3