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LEGISLATIVE ACTION

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

Senate Amendment

Delete lines 64 - 269
and insert:
utility pole owned by a municipal electric company 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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10 b. Has more than 5,000 residents; and
11 c. Has underground utilities for electric transmission or
12 distribution.

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

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

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

22 9. "Small wireless facility" means a wireless facility that
23 meets the following qualifications:

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

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

38 10. "Utility pole" means a pole or similar structure that



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

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

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

52 b. Wireline backhaul facilities; or

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

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

61 13. "Wireless provider" means a wireless infrastructure
62 provider or a wireless services provider.

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

66 15. "Wireless services provider" means a person who
67 provides wireless services.



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

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

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

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

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

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

93 4. An authority may not limit the placement of small
94 wireless facilities by minimum separation distances or a maximum
95 height limitation; however, an authority may limit the height of
96 a small wireless facility to no more than 10 feet above the



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

106 5. Within 10 days after receiving an application, an
107 authority must determine and notify the applicant by electronic
108 mail as to whether the application is complete. If an
109 application is deemed incomplete, the authority must
110 specifically identify the missing information. An application is
111 deemed complete if the authority fails to provide notification
112 to the applicant within 10 days or when all documents,
113 information, and fees specifically enumerated in the authority's
114 permit application form are submitted by the applicant to the
115 authority.

116 6. An application must be processed on a nondiscriminatory
117 basis. A complete application is deemed approved if an authority
118 fails to approve or deny the application within 60 days after
119 receipt of the application.

120 7. An authority must notify the applicant of approval or
121 denial by electronic mail. An authority shall approve a complete
122 application unless it does not meet the authority's applicable
123 codes. If the application is denied, the authority must specify
124 in writing the basis for denial, including the specific code
125 provisions on which the denial was based, and send the



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126 documentation to the applicant by electronic mail on the day the
127 authority denies the application. The applicant may cure the
128 deficiencies identified by the authority and resubmit the
129 application within 30 days after notice of the denial is sent to
130 the applicant. The authority shall approve or deny the revised
131 application within 30 days after receipt or the application is
132 deemed approved. Any subsequent review shall be limited to the
133 deficiencies cited in the denial.

134 8. An applicant seeking to collocate small wireless
135 facilities within the jurisdiction of a single authority may, at
136 the applicant's discretion, file a consolidated application and
137 receive a single permit for the collocation of multiple small
138 wireless facilities.

139 (e) An authority may not require approval or require fees
140 or other charges for:

141 1. Routine maintenance;

142 2. Replacement of existing wireless facilities with
143 wireless facilities that are substantially similar or of the
144 same or smaller size; or

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

150 (f) An authority shall approve the collocation of small
151 wireless facilities on authority utility poles, subject to the
152 following requirements:

153 1. An authority may not enter into an exclusive arrangement
154 with any person for the right to attach equipment to authority



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155 utility poles.

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

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

164 4. If an authority has an existing pole attachment rate,
165 fee, or other term that does not comply with this subsection,
166 the authority shall, no later than January 1, 2018, revise such
167 rate, fee, or term to be in compliance with this subsection.

168 5. A person owning or controlling an authority utility pole
169 shall offer rates, fees, and other terms that comply with this
170 subsection. By the later of January 1, 2018, or 3 months after
171 receiving a request to collocate its first small wireless
172 facility on a utility pole owned or controlled by an authority,
173 the person owning or controlling the authority utility pole
174 shall make available, through ordinance or otherwise, rates,
175 fees, and terms for the collocation of small wireless facilities
176 on the authority utility pole which comply with this subsection.

177 a. The rates, fees, and terms must be nondiscriminatory,
178 competitively neutral, and commercially reasonable and must
179 comply with this subsection.

180 b. For an authority utility pole that supports an aerial
181 facility used to provide communications services or electric
182 service, the parties shall comply with the process for make-
183 ready work under 47 U.S.C. s. 224 and implementing regulations.



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184 The good faith estimate of the person owning or controlling the
185 pole for any make-ready work necessary to enable the pole to
186 support the requested collocation must include pole replacement
187 if necessary.

188 c. For an authority utility pole that does not support an
189 aerial facility used to provide communications services or
190 electric service, the authority shall provide a good faith
191 estimate for any make-ready work necessary to enable the pole to
192 support the requested collocation, including necessary pole
193 replacement, within 60 days after receipt of a complete
194 application. Make-ready work, including any pole replacement,
195 must be completed within 60 days after written acceptance of the
196 good faith estimate by the applicant.

197 d. An authority may not require more make-ready work than
198 is required to meet applicable codes or industry standards. Fees
199 for make-ready work may not include costs related to preexisting
200 damage or prior noncompliance. Fees for make-ready work,
201 including any pole replacement, may not exceed actual costs or
202 the amount charged to communications service providers other
203 than wireless services providers for similar work and may not
204 include any consultant fee or expense.

205 (g) Except as provided in this chapter or specifically
206 required by state law, an authority may not adopt or enforce any
207 regulation on the placement or operation of communications
208 facilities in the rights-of-way by a provider authorized by
209 state law to operate in the rights-of-way and may not regulate
210 any communications services or impose or collect any tax, fee,
211 or charge not specifically authorized under state law.

212 (h) This subsection does not authorize a person to



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213 collocate small wireless facilities on a privately owned utility
214 pole, a utility pole owned by an electric cooperative, a
215 privately owned wireless support structure, or other private
216 property without the consent of the property owner.

217 (i) This subsection does not authorize a person to
218 collocate or attach small wireless facilities or micro wireless
219 facilities on a utility pole or erect a wireless support
220 structure in the right-of-way located within a retirement
221 community that:

222 1. Is deed-restricted as housing for older persons as
223 defined in s. 760.29(4) (b);

224 2. Has more than 5,000 residents; and

225 3. Has underground utilities for electric transmission or
226 distribution.

227 (j) This subsection may not be construed to limit local