Small Cell Wireless Legislation: Understanding the Impacts of Senate Bill 66

August 13, 2019
• City and county officials fought against the wireless telecom industry over control of the public right-of-way during the 2018 legislative session
• General Assembly leadership directives to local government
• House Rural Development Council’s recommendations
• GMA and ACCG began negotiations with wireless industry in May of 2018
Federal Actions

- Wireless telecommunications industry has passed preemptive right-of-way bills in over 25 states
- The Federal Communications Commission passed a declaratory ruling for 5G Small Cell Wireless Antennas that became effective January 2019 – preempting state and local governments on rates and fees, aesthetics, shot clocks, etc.
SB 66 is written to encourage colocation of small cell antennas on already existing infrastructure, limited to the public right-of-way.

Within the context of the FCC preemption, the small cell legislation protects local aesthetics in a number of ways:

- Historic Districts and Decorative Poles
- Residential Areas
- Undergrounded Areas
- Addresses abandoned facilities and ROW damage
- Pole attachments and infrastructure in electric cities
Regulation of Poles

- Pole height limited to 50 ft or 10 ft higher than existing poles as of July 1, 2019 and within 500 feet of proposed new pole

- Pole height in residential areas and historic districts to not exceed 50 ft

- Public safety concerns, traffic control and ROW congestion are all grounds for permit denial

- Applications must be detailed: construction drawings, structural report, visual depictions, specific location, certification for new poles
Specifics of Compromise Legislation

Review and Permitting of Applications

- 20 days to determine completeness of applications
- If problem with application, 20 days to cure
- Within 30 days of determining completeness, approve or deny permit for co-locations
- Within 70 days of determining completeness, approve or deny permit for new poles
- If authority fails to act, one final 20 day period to act or application deemed granted
Batch Applications

- Number of applications based on size of community established in a tiered process per jurisdiction:
  - Class 1 Authority - 100,000 parcels or more
  - Class 2 Authority - 10,000 parcels to less than 100,000 parcels
  - Class 3 Authority - Less than 10,000 parcels

- Providers must submit two year build out plans prior to submitting batch applications in top tier authorities

- Tolling number increases incrementally as local governments grow more efficient with processing permits
Application Fees:

- New Pole - $1000 per pole plus must have certified documentation by licensed engineer proving need for new pole
- Replacement Pole - $250 per pole
- Co-locate - $100 per pole
- All application fees increase by 2.5% annually beginning in 2021

Annual Right-of-Way Rates:

- New Poles - $200 per year
- Existing or Replacement poles - $100 per year
- Pole Attachment fee - $40 per year
Penalties for Failures of Telecoms

- Telecoms who refuse or fail to move equipment or poles or repair problems when required under the bill:
  - Face potential withholding of permits by the local government
  - Face potential fines for failures to abide by the law
- Telecoms who install poles or equipment without a permit face even larger fines and denials of permits
Moving Forward

- Bill provides a safe harbor should the FCC order be overturned
- Existing agreements are grandfathered in under the legislation
- Electric cities are exempt from the legislation
- Cable industry legislative interests