

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



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Framework for Compromise

Georgia General Assembly

- 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.



Community Aesthetics

- 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

Permitting Process

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 and Annual ROW Fees

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