



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1621

PRINTERS NO. 1797

PRIME SPONSOR: Marshall

COST / (SAVINGS)

| FUND | FY 2020/21 | FY 2021/22 |
|--------------|------------|------------|
| General Fund | \$0 | \$0 |

SUMMARY: House Bill 1621, Printer's Number 1797, creates the Small Wireless Facilities Deployment Act providing for installation in municipalities.

ANALYSIS: This bill creates the Small Wireless Facilities Deployment Act to effectuate the changes made at the federal level through the Federal Communications Commission (FCC) order addressing the deployment of small wireless facilities and new poles within the right-of-way.

The provisions of this bill only apply to activities of a wireless provider within the right-of-way to deploy small wireless facilities and associated new poles with equipment attached. A municipality may not enter into an agreement for exclusive use of the right-of-way and shall have the right to charge an annual fee for the use of the right-of-way. A municipality may not charge more than \$270 per year for a right of way fee unless the municipality can demonstrate that the amount is a reasonable approximation of actual costs and the fee is non-discriminatory.

A municipality may require permits for the collocation, maintenance and modification of a small wireless facility and the replacement or installation of a new pole. Permits are not required for routine maintenance or repair work, swapping out of facilities that are the same size, micro wireless facilities, unless such activities will result in a closure of a sidewalk or vehicular lane. The municipality may charge a one-time application fee up to the following:

1. Five hundred dollars (\$500) for an application seeking approval for no more than five collocated small wireless facilities and up to one hundred dollars for each collocated small wireless facility thereafter.
2. One thousand dollars (\$1,000) for an application seeking approval of a small wireless facility that requires the installation of a new or replacement utility pole.

Rate or fee adjustments by the municipality are permissible should the FCC change these rates, or the rate caps may be increased at a rate of 3 percent annually if the rates are changed as a result of a court decision. However, a municipality shall not charge a wireless provider fee to collocate on municipal poles, while make-ready work charged by a municipality must be non-discriminatory, competitively neutral and reasonable.

Except for underground districts, such deployments shall be considered a permitted use when in conformance with applicable codes. A municipality may not condition permitting on the provision of services or goods unrelated to the permit and may not institute a moratorium on

applications or permitting for small wireless facilities aside from batching limitations. The bill also outlines municipal requirements for wireless providers in underground districts and historic districts. If a provider requests a waiver or variance, a municipality may require a public hearing and, with the approval of the property owner, permit a waiver request.

If an application is seeking collocation, a municipality will have 60 days to review the application before it is deemed approved. No applicant may have more than 20 single applications within a 30-day period in a municipality with a population of less than 50,000 but the processing deadline shall be extended 15 days if more than 20 applications are received within the time period.

A municipality may deny an application if the deployment interferes with safe operation of traffic control equipment, sight lines, or clear zones as required with the Americans with Disabilities Act, if the deployment does not comply with applicable codes, if the deployment does not comply with this act, or if the deployment is not accompanied by an engineering experts report showing compliance with FCC regulations. Municipalities may also require new pole applications have a certification, accompanied with documentation, that collocation on an existing facility is not feasible if a new pole is to be installed. Denials must enumerate a deficiency and an applicant will have 30 days to cure the deficiency without incurring another application fee.

Any damage to the right-of-way or any other land disturbed shall be repaired to as good of condition as it existed prior to the deployment. If the provider fails to do so within 30 days of written notice, the municipality may perform those repairs and charge the provider for the reasonable cost of those repairs plus a penalty of up to \$500. Additionally, any additional or pending permits may be suspended until penalties are paid in full or escrowed.

No more than 60 days following the suspension or revocation of a permit, or 90 days following the end of a term agreement, the applicant shall remove the small wireless facility and any associated equipment.

This legislation would take effect in 60 days upon enactment.

FISCAL IMPACT: Enactment of this legislation would have no direct impact on Commonwealth funds, but it does provide municipalities with the ability to charge wireless providers and collect fees for the use of rights-of-way to deploy small wireless facilities. The amount of revenues collected would be dependent upon the amount of annual right-of-way fees, but primarily the number of permit applications and related fees received to install small wireless facilities and utility poles.

PREPARED BY: Jeffrey Clukey
House Appropriations Committee (R)

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Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.