Please Contact Your House Members, Urging them to Fix SB 426

Small Cell/Wireless Preemption of Local Government Right of Way

Senate Bill 426 guarantees authorization for wireless providers to construct and place poles (50' high, or 10' taller than any existing pole within 500'), antennas (up to 6 cubic feet in volume and 10' higher than poles), equipment boxes (up to 28 cubic feet in volume), plus up to 4 cabinets (undefined size) and other infrastructure in county and city right of way (ROW). Local government management of the above is all but entirely usurped; the grounds by which applications can be denied are few; denials are primed to result in litigation; and then locals are set up to lose.

ACCG Talking Points and Concerns

ACCG has attempted to work with wireless providers, legislators and other stakeholders since last year to try to incorporate safeguards into the legislation. Most suggestions were rejected, a few improvements were made, but most wireless industry "concessions" are so wrought with legal loopholes that their purported purpose has been nullified.

State legislators to now take responsibility. If citizens have complaints or concerns about the deployment of this equipment, under this law, local officials will have no choice but to refer them to local legislators since state law now governs the entire permitting process.

There will be a proliferation of new poles in the ROW. In the absence of meaningful incentives/requirements for collocation on existing poles, this bill will lead to a proliferation of new poles installed by each wireless company. Each provider can apply for up to 10 of these at once.

This is not a statewide process. This legislation does not apply to the state DOT roads and EMC poles. It should, in order to, as proponents claim, create a statewide, streamlined process for deploying 5G wireless technology. These omissions also encourage new poles in local ROW.

Shot clocks should apply all around. Local governments are held to strict time frames on determining the completeness of applications and acting on them, or they are "deemed approved". There are no "shot clocks" on the removal or relocation of wireless equipment for road widening or other maintenance/improvement projects.

While collocation is preferred, it too comes with adjoining equipment. The bill authorizes a single provider to inundate a local permitting department with up to 250 collocation applications simultaneously. Collocations entail not only those snazzy little boxes attached to an existing pole, but also the 28 cubic foot equipment box "adjacent" to a pole – that's a full size refrigerator/freezer combo. Remember, the shot clock is running.

Abandoned wireless facilities could become common as technology changes. It is unreasonable to expect a local government to know when a small cell, pole, and/or equipment has been decommissioned; however, locals are required to determine this in order to start a notification process to have these facilities removed.

Taxpayers to subsidize the permitting process. Locals may only charge permit fees of up to $100 each for up to five small wireless facilities addressed in an application and $50 for each additional small wireless facility. This may cover the permitting cost in limited cases, but taxpayers will be footing the difference for the staff, time and resources to cover true cost.

Please e-mail Todd Edwards (tedwards@accg.org) what feedback you have received from your legislator.