

# SENATE BILL No. 637

October 19, 2017, Introduced by Senators HUNE and NOFS and referred to the Committee on Energy and Technology.

A bill to provide for the regulation by state or local authorities of the activities of wireless infrastructure providers and wireless services providers and of wireless facilities, wireless support structures, and utility poles; to regulate rates and fees concerning wireless facilities, wireless support structures, communication service provider pole attachments, and utility poles charged by state or local authorities and certain electric utilities; to provide for collocation of wireless facilities and of communications service provider pole attachments; to provide for use of rights-of-way; to regulate certain permitting processes and zoning reviews; to prohibit certain commercially discriminatory actions by state or local authorities and certain electric utilities; and to prohibit certain indemnification or insurance requirements.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. (1) This act shall be known and may be cited as the  
2 "small wireless communications facilities deployment act".

3           (2) The purpose of the act is to do all of the following:

4           (a) Increase investment in wireless networks that will benefit  
5 the citizens of this state by providing better access to emergency  
6 services, advanced technology, and information.

7           (b) Increase investment in wireless networks that will enhance  
8 the competitiveness of this state in the global economy.

9           (c) Encourage the deployment of advanced wireless services by  
10 streamlining the process for the permitting, construction,  
11 modification, maintenance, and operation of wireless facilities in  
12 the public rights-of-way.

13           (d) Allow wireless services providers and wireless  
14 infrastructure providers access to the public rights-of-way and the  
15 ability to attach to poles and structures in the public rights-of-  
16 way to enhance their networks and provide next generation services.

17           (e) Ensure the reasonable and fair control and management of  
18 public rights-of-way by governmental units within this state.

19           (f) Address the timely design, engineering, permitting,  
20 construction, modification, maintenance, and operation of wireless  
21 facilities as matters of statewide concern and interest.

22           (g) Provide for the management of public rights-of-way in a  
23 manner that does all of the following:

24           (i) Supports new technology.

25           (ii) Avoids interference with right-of-way use by existing  
26 public utilities and cable communications providers.

1           (iii) Ensures a level playing field for competitive  
2 communications service providers.

3           Sec. 3. As used in this act:

4           (a) "Antenna" means communications equipment that transmits or  
5 receives electromagnetic radio frequency signals used in the  
6 provision of wireless services.

7           (b) "Applicable codes" means uniform building, fire,  
8 electrical, plumbing, or mechanical codes adopted by a recognized  
9 national code organization and adopted under the Stille-Derossett-  
10 Hale single state construction code act, 1972 PA 230, MCL 125.1501  
11 to 125.1531, to address threats of destruction of property or  
12 injury to persons to the extent not inconsistent with this act.

13           (c) "Applicant" means a wireless provider that submits an  
14 application.

15           (d) "Application" means a request submitted to an authority  
16 for a permit to collocate small cell wireless facilities or to  
17 approve the installation or modification of a utility pole or  
18 wireless support structure.

19           (e) "Authority", unless the context implies otherwise, means  
20 each state, county, township, city, village, district, or  
21 subdivision thereof authorized by law to make legislative, quasi-  
22 judicial, or administrative decisions concerning an application.  
23 Authority does not include a state court having jurisdiction over  
24 an authority.

25           (f) "Authority pole" means either of the following that are  
26 owned or operated by an authority and located in the ROW:

27           (i) A utility pole, other than a utility pole for designated

1 services.

2 (ii) A pole or similar structure that supports only wireless  
3 facilities.

4 (g) "Collocate" means to install, mount, maintain, modify,  
5 operate, or replace wireless facilities on or adjacent to a  
6 wireless support structure or utility pole. "Collocation" has a  
7 corresponding meaning.

8 (h) "Communications facility" means the set of equipment and  
9 network components, including wires, cables, antennas, and  
10 associated facilities, used by a communications service provider to  
11 provide communications service.

12 (i) "Communications service" means service provided over a  
13 communications facility, including cable service, as defined in 47  
14 USC 522(6), information service, as defined in 47 USC 153(24),  
15 telecommunications service, as defined in 47 USC 153(53), or  
16 wireless service.

17 (j) "Communications service provider" means any entity that  
18 provides communications services.

19 (k) "FCC" means the Federal Communications Commission.

20 (l) "Fee" means a 1-time charge.

21 (m) "Law" means federal, state, or local law, including common  
22 law or a statute, rule, regulation, order, or ordinance.

23 (n) "Make-ready work" means work necessary to enable an  
24 authority pole or utility pole to support collocation, which may  
25 include authority pole or utility pole modification or replacement,  
26 modification of lines, or installation of guys and anchors.

27 (o) "Micro wireless facility" means a small cell wireless

1 facility that is not more than 24 inches in length, 15 inches in  
2 width, and 12 inches in height and that does not have an exterior  
3 antenna more than 11 inches in length.

4 (p) "Permit" means a written authorization required by an  
5 authority to perform an action or initiate, continue, or complete a  
6 project.

7 (q) "Person" means an individual, corporation, limited  
8 liability company, partnership, association, trust, or other entity  
9 or organization, including an authority.

10 (r) "Rate" means a recurring charge.

11 (s) "Right-of-way" or "ROW" means the area on, below, or above  
12 a public roadway, highway, street, alley, easement, waterway,  
13 sidewalk, or similar property. Right-of-way does not include a  
14 federal interstate highway.

15 (t) "Small cell wireless facility" means a wireless facility  
16 that meets both of the following requirements:

17 (i) Each antenna is located inside an enclosure of not more  
18 than 6 cubic feet in volume or, in the case of an antenna that has  
19 exposed elements, the antenna and all of its exposed elements would  
20 fit within an imaginary enclosure of not more than 6 cubic feet.

21 (ii) All other wireless equipment associated with the facility  
22 is cumulatively not more than 28 cubic feet in volume. The  
23 following types of associated ancillary equipment are not included  
24 in the calculation of equipment volume: electric meters,  
25 concealment elements, telecommunications demarcation boxes, ground-  
26 based enclosures, grounding equipment, power transfer switches,  
27 cut-off switches, and vertical cable runs for the connection of

1 power and other services.

2 (u) "Utility pole" means a pole or similar structure that is  
3 used in whole or in part for communications service, electric  
4 distribution, lighting, traffic control, signage, or a similar  
5 function.

6 (v) "Utility pole for designated services" means a utility  
7 pole that is all of the following:

8 (i) Located in the ROW.

9 (ii) Owned or operated by an authority, a municipal electric  
10 utility, or a cooperative electric utility.

11 (iii) Designed to, or used in whole or in part to, carry  
12 cables or wires for telecommunications service, cable service, or  
13 electric service.

14 (w) "Wireless facility", subject to subdivision (x), means  
15 equipment at a fixed location that enables the provision of  
16 wireless services between user equipment and a communications  
17 network, including, but not limited to, radio transceivers,  
18 antennas, coaxial or fiber-optic cable, regular and backup power  
19 supplies, and comparable equipment, regardless of technological  
20 configuration. Wireless facility includes a small cell wireless  
21 facility.

22 (x) Wireless facility does not include any of the following:

23 (i) The structure or improvements on, under, or within which  
24 the equipment is collocated.

25 (ii) A wireline backhaul facility.

26 (iii) Coaxial or fiber-optic cable between utility poles or  
27 wireless support structures or that otherwise is not immediately

1 adjacent to or directly associated with a particular antenna.

2 (y) "Wireless infrastructure provider" means any person,  
3 including a person authorized to provide telecommunications service  
4 in this state but not including a wireless service provider, that  
5 builds or installs wireless communication transmission equipment,  
6 wireless facilities, or wireless support structures.

7 (z) "Wireless provider" means a wireless infrastructure  
8 provider or a wireless services provider.

9 (aa) "Wireless services" means any services, provided using  
10 licensed or unlicensed spectrum, including the use of Wi-Fi,  
11 whether at a fixed location or mobile.

12 (bb) "Wireless services provider" means a person that provides  
13 wireless services.

14 (cc) "Wireless support structure" means a freestanding  
15 structure, such as a monopole; tower, either guyed or self-  
16 supporting; billboard; or other existing or proposed structure  
17 designed to support or capable of supporting small cell wireless  
18 facilities. Wireless support structure does not include a utility  
19 pole.

20 (dd) "Wireline backhaul facility" means a facility used to  
21 transport services by wire from a wireless facility to a network.

22 Sec. 5. (1) This section applies only to activities of a  
23 wireless provider within the right-of-way for the deployment of  
24 small cell wireless facilities and associated new or modified  
25 utility poles.

26 (2) An authority shall not enter into an exclusive arrangement  
27 with any person for use of the ROW for the construction, operation,

1 marketing, or maintenance of utility poles or the collocation of  
2 small cell wireless facilities.

3 (3) An authority shall not charge a wireless provider a rate  
4 or fee for the use of the ROW with respect to the collocation of  
5 small cell wireless facilities or the construction, installation,  
6 mounting, maintenance, modification, operation, or replacement of  
7 utility poles in the ROW, unless the authority charges other  
8 communications service providers. If an authority is authorized by  
9 applicable law to charge a rate or fee to those persons, and does  
10 so, any such rate or fee charged to a wireless provider shall be  
11 competitively neutral with regard to other users of the ROW. The  
12 rate or fee shall not do any of the following:

13 (a) Result in a double recovery where existing rates, fees, or  
14 taxes already recover direct and actual costs of managing the  
15 rights of way.

16 (b) Be based on wireless provider revenue or customer counts.

17 (c) Be unreasonable or discriminatory.

18 (d) Violate any applicable law.

19 (e) Exceed an annual amount equal to \$20.00 times the number  
20 of utility poles or wireless support structures in the authority's  
21 geographic jurisdiction on which the wireless provider has  
22 collocated a small cell wireless facility.

23 (f) Exceed the direct and actual cost of managing the ROW.

24 (4) If, on the effective date of this act, an authority has a  
25 rate or fee for the use of the ROW to construct, install, mount,  
26 maintain, modify, operate, or replace a small cell wireless  
27 facility or wireless support structure, and the rate or fee does



1 not comply with subsection (3), not later than 180 days after the  
2 effective date of this act, the authority shall revise the rate or  
3 fee to comply with subsection (3).

4 (5) Subject to this section and approval of an application, if  
5 required by law, a wireless provider may, as a permitted use not  
6 subject to zoning review or approval, collocate small cell wireless  
7 facilities and construct, maintain, modify, operate, or replace  
8 utility poles in, along, across, upon, and under the ROW. Such  
9 structures and facilities shall be constructed and maintained so as  
10 not to obstruct or hinder the usual travel or public safety on the  
11 ROW or obstruct the legal use of the ROW by other utilities and  
12 communications service providers. Both of the following apply:

13 (a) Each new or modified utility pole installed in the ROW  
14 shall not exceed the greater of the following:

15 (i) 10 feet in height above the tallest existing utility pole  
16 in place on the effective date of this act and located within 500  
17 feet of the new or modified pole in the same ROW.

18 (ii) 50 feet above ground level.

19 (b) Small cell wireless facilities installed or modified in  
20 the ROW shall not extend as described in either of the following:

21 (i) More than 10 feet above an existing utility pole or  
22 wireless support structure, in place as of the effective date of  
23 this act, to which the new small cell wireless facilities are  
24 attached.

25 (ii) Above the height permitted under this subsection for the  
26 installation or modification of a utility pole.

27 (6) Subject to this section and section 7, a wireless provider

1 may construct, maintain, or modify a utility pole or small cell  
2 wireless facility that exceeds the height limits under subsection  
3 (5) along, across, upon, and under the ROW, subject to applicable  
4 zoning regulations. An applicant proceeding under this subsection  
5 shall comply with any nondiscriminatory requirements that  
6 installation in the ROW be underground in areas zoned exclusively  
7 for single family residential use unless prior zoning approval is  
8 obtained. Such requirements shall not prohibit the replacement of  
9 existing structures.

10 (7) The authority's administration and regulation of the ROW  
11 shall be reasonable, nondiscriminatory, and competitively neutral  
12 and shall comply with applicable law.

13 (8) The authority may require a wireless provider to repair  
14 all damage to the ROW directly caused by the activities of the  
15 wireless provider while occupying, constructing, installing,  
16 mounting, maintaining, modifying, operating, or replacing its small  
17 cell wireless facilities or utility poles in the ROW and to return  
18 the ROW to its functional equivalence before the damage. If the  
19 wireless provider fails to make the repairs required by the  
20 authority within a reasonable time after written notice, the  
21 authority may make those repairs and charge the applicable party  
22 the reasonable, documented cost of the repairs.

23 (9) The approval of a small cell wireless facility under this  
24 act authorizes only the collocation of a small cell wireless  
25 facility and does not authorize any of the following:

26 (a) The provision of any particular services.

27 (b) The installation, placement, modification, maintenance, or

1 operation of a wireline backhaul facility in the ROW.

2       Sec. 7. (1) This section applies to activities of a wireless  
3 provider within or outside of the right-of-way.

4       (2) Except as provided in sections 5, 9, and 11 and this  
5 section, an authority shall not prohibit, regulate, or charge for  
6 the collocation of small cell wireless facilities.

7       (3) Small cell wireless facilities are permitted uses and not  
8 subject to zoning review or approval if they are collocated within  
9 the ROW in any zone or outside the ROW in property not zoned  
10 exclusively for single-family residential use.

11       (4) Except as otherwise provided in subsection (6), an  
12 authority may require an application for a permit to collocate a  
13 small cell wireless facility if the permit is of general  
14 applicability and does not apply exclusively to wireless  
15 facilities. The processing of an application for such a permit is  
16 subject to all of the following requirements:

17       (a) The authority shall not directly or indirectly require an  
18 applicant to perform services unrelated to the collocation for  
19 which approval is sought, such as reserving fiber, conduit, or pole  
20 space for the authority or making other in-kind contributions to  
21 the authority.

22       (b) The authority shall only require an applicant to provide  
23 information that is required from other communications service  
24 provider applicants that are not wireless providers.

25       (c) Within 10 days after receiving an application, an  
26 authority shall notify the applicant whether the application is  
27 complete. If the application is incomplete, the authority shall

1 specifically identify the missing information.

2 (d) The application shall be processed on a nondiscriminatory  
3 basis.

4 (e) The authority shall approve or deny the application and  
5 notify the applicant in writing within 60 days after the  
6 application is received. If the authority fails to comply with this  
7 subdivision, the application is considered to be approved.

8 (f) The authority shall approve the application unless it does  
9 not comply with applicable codes. If the application is denied, the  
10 notice under subdivision (e) shall explain the reasons for the  
11 denial and cite the specific provisions of applicable codes on  
12 which the denial is based. The applicant may cure the deficiencies  
13 identified by the authority and resubmit the application within 30  
14 days after the denial without paying an additional application fee.  
15 The authority shall approve or deny the revised application within  
16 30 days. The authority shall limit its review of the revised  
17 application to the deficiencies cited in the denial.

18 (g) An applicant seeking to collocate small cell wireless  
19 facilities within the jurisdiction of a single authority may at the  
20 applicant's discretion file a consolidated application and receive  
21 a single permit for the collocation of multiple small cell wireless  
22 facilities.

23 (h) A wireless provider shall commence collocation of a small  
24 cell wireless facility within 1 year after a permit is granted and  
25 shall pursue collocation to completion. Any time limitation placed  
26 on a permit is void. However, the permittee may voluntarily request  
27 that the permit be terminated.

1           (i) An authority shall not institute a moratorium on filing,  
2 receiving, or processing applications or issuing permits or other  
3 approvals, if any, for the collocation of small cell wireless  
4 facilities.

5           (5) An application fee for a permit under subsection (4) is  
6 subject to all of the following requirements:

7           (a) An authority may charge an application fee only if the fee  
8 is also charged to other communications service providers within  
9 the authority's jurisdiction.

10           (b) An authority shall not charge an application fee for costs  
11 that are already recovered by existing fees, rates, or taxes paid  
12 by a wireless provider.

13           (c) Total application fees shall not exceed the least of the  
14 following:

15           (i) The amount charged by the authority for a building permit  
16 for any similar commercial construction, activity, or land use  
17 development.

18           (ii) The actual, direct, and reasonable costs incurred by the  
19 authority relating to the granting or processing of an application.  
20 In any controversy concerning the appropriateness of an application  
21 fee, the authority has the burden of proving that the fee is  
22 reasonably related to the actual, direct, and reasonable costs  
23 incurred by the authority.

24           (iii) \$100.00 each for up to 5 small cell wireless facilities  
25 addressed in an application and \$50.00 for each additional small  
26 cell wireless facility addressed in the application.

27           (6) An authority shall not require an application approval or

1 permit or require fees or rates for any of the following:

2 (a) The replacement of a small cell wireless facility with a  
3 small cell wireless facility that is substantially similar or the  
4 same size or smaller.

5 (b) Routine maintenance of small cell wireless facilities or  
6 wireless support structures.

7 (c) The installation, placement, maintenance, operation, or  
8 replacement of micro wireless facilities that are suspended on  
9 cables that are strung between utility poles or wireless support  
10 structures in compliance with applicable codes.

11 (7) This section does not prohibit an authority from requiring  
12 a permit for work that will unreasonably affect traffic patterns or  
13 obstruct vehicular traffic in the ROW.

14 Sec. 9. (1) The activities set forth in section 7(6) are  
15 exempt from zoning review. Subsections (2) to (4) apply to zoning  
16 reviews for the following activities that are subject to zoning  
17 review and approval, that are not a permitted use under section  
18 5(5) or 7(3), and that take place within or outside the ROW:

19 (a) The modification of existing or installation of new small  
20 cell wireless facilities.

21 (b) The modification of existing or installation of wireless  
22 support structures or utility poles used for such small cell  
23 wireless facilities.

24 (2) The processing of an application for a zoning approval is  
25 subject to all of the following requirements:

26 (a) Within 30 days after receiving an application under this  
27 section, an authority shall notify the applicant whether the

1 application is complete. If the application is incomplete, the  
2 authority shall specifically identify the missing information.

3 (b) The application shall be processed on a nondiscriminatory  
4 basis.

5 (c) The authority shall approve or deny the application and  
6 notify the applicant in writing within 90 days after an application  
7 for a modification of a wireless support structure or installation  
8 of a small cell wireless facility is received or 150 days after an  
9 application for a new wireless support structure is received. The  
10 time period for approval may be tolled to accommodate timely  
11 requests by the authority for information required to complete the  
12 application. The time period for approval may be extended by mutual  
13 agreement between the applicant and authority. If the authority  
14 fails to comply with this subdivision, the application is  
15 considered to be approved.

16 (d) A decision to deny an application under this section shall  
17 be supported by substantial evidence contained in a written record  
18 that is publicly released contemporaneously. An authority shall not  
19 deny an application unless there is a reasonable basis for the  
20 denial. An authority shall not deny an application if the denial  
21 would discriminate against the applicant with respect to the  
22 placement of the facilities of other wireless providers.

23 (3) An application fee for a zoning approval is subject to the  
24 following requirements:

25 (a) An authority may charge an application fee only if the fee  
26 is required for similar types of commercial development within the  
27 authority's jurisdiction.

1 (b) An authority shall not charge an application fee for costs  
2 that are already recovered by existing fees, rates, or taxes paid  
3 by a wireless provider.

4 (c) Total application fees, if authorized, shall not exceed  
5 the least of the following:

6 (i) The amount charged by the authority for a building permit  
7 for any similar commercial construction, activity, or land use  
8 development.

9 (ii) The actual, direct, and reasonable costs incurred by the  
10 authority relating to the granting or processing of an application.  
11 In any controversy concerning the appropriateness of an application  
12 fee, the authority has the burden of proving that the fee is  
13 reasonably related to the actual, direct, and reasonable costs  
14 incurred by the authority.

15 (iii) \$1,000.00 for a new wireless support structure or a  
16 modification of a wireless support structure.

17 (4) An authority shall receive and process an application for  
18 a zoning approval subject to all of the following requirements:

19 (a) An applicant's business decision on the type and location  
20 of small cell wireless facilities, wireless support structures,  
21 utility poles, or technology to be used is presumed to be  
22 reasonable. This presumption does not apply with respect to the  
23 height of wireless facilities, wireless support structures, or  
24 utility poles. An authority may consider the height of such  
25 structures in its zoning review, but shall not unreasonably  
26 discriminate between the applicant and other communications service  
27 providers.



1 (b) An authority shall not evaluate or require an applicant to  
2 submit information about an applicant's business decisions with  
3 respect to any of the following:

4 (i) The need for a wireless support structure, utility pole,  
5 or small cell wireless facilities.

6 (ii) The applicant's service, customer demand for the service,  
7 or the quality of service.

8 (c) Any requirements regarding the appearance of facilities,  
9 including those relating to materials used or arranging, screening,  
10 or landscaping, shall be reasonable.

11 (d) Any setback or fall zone requirement shall be  
12 substantially similar to a setback or fall zone requirement imposed  
13 on other types of commercial structures of a similar height.

14 (e) A wireless provider shall commence construction of the  
15 approved structure or facilities within 2 years after a permit is  
16 granted and shall pursue construction to completion. Any time  
17 limitation placed on a permit is void. However, the permittee may  
18 voluntarily request that the permit be terminated.

19 (f) An authority shall not institute a moratorium on either of  
20 the following:

21 (i) Filing, receiving, or processing applications.

22 (ii) Issuing approvals for installations that are not a  
23 permitted use.

24 Sec. 11. (1) A person owning or controlling authority poles or  
25 utility poles for designated services may not enter into an  
26 exclusive arrangement with any person for the right to attach to  
27 the poles.

1 (2) All of the following apply to collocation rates or fees,  
2 as indicated:

3 (a) The rates and fees for the collocation of small cell  
4 wireless facilities on authority poles or utility poles for  
5 designated services shall be nondiscriminatory regardless of the  
6 services provided by the collocating person.

7 (b) The rate to collocate small cell wireless facilities on  
8 utility poles for designated services shall not exceed the lesser  
9 of the following:

10 (i) The annual recurring rate that would be permitted under  
11 rules adopted by the FCC under 47 USC 224(e) if the rates were  
12 regulated by the FCC.

13 (ii) \$20.00 per year per utility pole for designated services.

14 (c) The total annual rate to collocate small cell wireless  
15 facilities on authority poles and any activities related to such  
16 collocations shall not exceed the lesser of the following:

17 (i) The actual, direct, and reasonable costs related to the  
18 collocation on the authority pole. In any controversy concerning  
19 the appropriateness of a rate for an authority pole, the authority  
20 has the burden of proving that the rate is reasonably related to  
21 the actual, direct, and reasonable costs incurred for use of space  
22 on the authority pole for the period.

23 (ii) \$20.00 per year per utility pole.

24 (d) If an authority, a municipal electric utility, or a  
25 cooperative electric utility has an existing pole attachment rate,  
26 fee, or other term that does not comply with this section, the  
27 authority, municipal electric utility, or cooperative electric

1 utility shall, not later than 180 days after the effective date of  
2 this act, revise the rate, fee, or term to comply with this  
3 section.

4 (3) Within the later of 180 days after the effective date of  
5 this act or 90 days after receiving a request to collocate its  
6 first small cell wireless facility on an authority pole or a  
7 utility pole for designated services owned or controlled by an  
8 authority, a person owning or controlling authority poles or  
9 utility poles for designated services shall make available, through  
10 ordinance or otherwise, the rates, fees, and terms for the  
11 collocation of small cell wireless facilities on the poles. The  
12 rates, fees, and terms shall comply with all of the following:

13 (a) The rates, fees, and terms shall be nondiscriminatory,  
14 competitively neutral, and commercially reasonable and shall comply  
15 with this act.

16 (b) For authority poles that support aerial cables used for  
17 video, communications, or electric service, and for utility poles  
18 for designated services, the parties shall comply with the process  
19 for make-ready work under 47 USC 224 and implementing orders and  
20 regulations. The good-faith estimate of the person owning or  
21 controlling the pole for any make-ready work shall include pole  
22 replacement if necessary.

23 (c) For authority poles that do not support aerial cables used  
24 for video, communications, or electric service, the authority shall  
25 provide a good-faith estimate for any make-ready work within 60  
26 days after receipt of a complete application. Make-ready work shall  
27 be completed within 60 days of written acceptance of the good-faith

1 estimate by the applicant.

2 (d) The person owning or controlling the authority pole or  
3 utility pole for designated services shall not require more make-  
4 ready work than required to comply with law or industry standards.

5 (e) Fees for make-ready work shall not do any of the  
6 following:

7 (i) Include costs related to preexisting or prior damage or  
8 noncompliance.

9 (ii) Include any consultant fees or expenses.

10 (iii) Exceed actual costs or the amount charged to other  
11 communications service providers for similar work.

12 (4) The rates, fees, terms, and conditions for the collocation  
13 of small cell wireless facilities in subsections (2) and (3) shall  
14 apply to the pole attachments of communication service providers to  
15 utility poles for designated services.

16 Sec. 13. Subject to this act and applicable federal law, an  
17 authority may continue to exercise zoning, land use, planning, and  
18 permitting authority within its territorial boundaries, including  
19 with respect to wireless support structures and utility poles.  
20 However, an authority does not have jurisdiction or authority over  
21 the design, engineering, construction, installation, or operation  
22 of a small cell wireless facility located in an interior structure  
23 or upon the site of a campus, stadium, or athletic facility not  
24 otherwise owned or controlled by the authority, other than to  
25 enforce applicable codes. This act does not authorize this state or  
26 any other authority to require wireless facility deployment or to  
27 regulate wireless services.

1           Sec. 15. The circuit court has jurisdiction to determine all  
2 disputes arising under this act. Unless agreed otherwise and  
3 pending resolution of a right-of-way access rate dispute, the  
4 authority controlling access to and use of the ROW shall allow the  
5 placement of a wireless facility or wireless support structure at a  
6 temporary rate of 1/2 of authority-proposed annual rates or \$20.00,  
7 whichever is less. The rates shall be trued up upon final  
8 resolution of the dispute. Pending resolution of a dispute  
9 concerning rates for collocation of small cell wireless facilities  
10 on authority poles or utility poles for designated services, the  
11 person owning or controlling the poles shall allow the wireless  
12 provider to collocate small cell wireless facilities on its poles  
13 at annual rates of no more than \$20.00 per year per utility pole.  
14 The rates shall be trued up upon final resolution of the dispute.

15           Sec. 17. An authority shall not require a wireless provider to  
16 do either of the following with respect to a small cell wireless  
17 facility, a wireless support structure, or a utility pole:

18           (a) Indemnify and hold the authority and its officers and  
19 employees harmless against any claims, lawsuits, judgments, costs,  
20 liens, losses, expenses, or fees, unless a court of competent  
21 jurisdiction has found that the negligence of the wireless provider  
22 while installing, repairing, or maintaining small cell wireless  
23 facilities, wireless support structures, or utility poles caused  
24 the harm that gave rise to the claims, lawsuits, judgments, costs,  
25 liens, losses, expenses, or fees.

26           (b) Require a wireless provider to obtain insurance naming the  
27 authority or its officers or employees an additional insured

1 against any claims, lawsuits, judgments, costs, liens, losses,  
2 expenses, or fees.

3       Sec. 19. An authority may establish a fee less than the  
4 maximum specified in section 5(3), 7(5), 9(3), or 11(2), subject to  
5 other requirements of this act.

6       Enacting section 1. This act takes effect 90 days after the  
7 date it is enacted into law.