



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 637 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 894 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Senator Joe Hune (S.B. 637)
 Senator Mike Nofs (S.B. 894)
Committee: Energy and Technology

CONTENT

Senate Bill 637 (S-2) would enact the "Small Wireless Communications Facilities Deployment Act" to do the following:

- Prohibit an authority (the State or a local unit) from prohibiting, regulating, or charging for the collocation of small cell wireless facilities, except as provided in the Act.
- Prohibit an authority from entering into an exclusive agreement for use of a right-of-way (ROW) for work on utility poles or the collocation of small cell wireless facilities.
- Prohibit an authority from charging a wireless provider a rate or fee for the use of an ROW, except as provided in the Act.
- Permit a wireless provider to colocate small wireless facilities and work on utility poles in, along, across, upon, and under an ROW, subject to certain height limitations.
- Permit an authority to adopt requirements for design or concealment measures in a historic district, downtown district, or residential district, subject to evaluation on the effects on historic properties.
- Allow an authority to require a wireless provider to repair any damage to an ROW directly caused by the provider's activities while working on small cell wireless facilities or utility poles in the ROW.
- Allow an authority to require a permit to colocate a small cell wireless facility or install, modify, or replace a utility pole on which a small cell wireless facility would be colocated.
- Require an application and an application fee for a permit to meet certain conditions.
- Require a provider to complete collocation within one year after a permit was granted, subject to exceptions.
- Require a wireless provider to notify an authority in writing before discontinuing its use of a small cell wireless facility, utility pole, or wireless support structure, and specify when and how the facility would be removed.
- Specify requirements an application for a zoning approval would have to meet.
- Require an authority to approve or deny an application and notify the applicant within 90 days if the application were for a modification of a wireless support structure or the installation of a new small cell wireless facility, or within 150 days if the application were for a new wireless support structure.
- Prohibit an authority from denying an application without a reasonable basis for the denial, require a denial to be supported by substantial evidence, and prohibit a denial from discriminating with respect to the placement of facilities of other wireless providers.
- Establish application fees for zoning approval, and require a wireless provider to commence construction of an approved structure or facility within one year after zoning approval was granted.
- Prohibit an authority from entering into an exclusive arrangement with any person for the right to attach to authority poles.
- Establish requirements that a rate or fee to colocate a small cell wireless facility on an authority pole would have to meet.

- Prohibit the governing body of a municipally owned electric utility from entering into an exclusive agreement with any person for the right to attach to nonauthority poles.
- Require the governing body of a municipally owned electric utility to adopt a process for wireless providers' requests to colocate small cell wireless facilities, and establish requirements that a rate or fee to process such requests would have to meet.
- Require a wireless provider that had to relocate small cell facilities colocated on a nonauthority pole to comply with terms and standards adopted by the governing board of a municipally owned electric utility.
- Permit an authority, as a condition for obtaining a permit, to adopt bonding requirements for small cell wireless facilities if certain requirements were met.

Senate Bill 894 (S-1) would amend the Michigan Zoning Enabling Act to provide that a zoning ordinance would be subject to the proposed Small Wireless Communications Facilities Deployment Act, and specify that provisions pertaining to wireless communications equipment that is a permitted use of property would not apply to an activity or use regulated by that Act.

MCL 125.3205 & 125.3514 (S.B. 894)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

Senate Bill 637 (S-2) would have an indeterminate fiscal impact on the State and a likely negative impact on local units of government.

The bill would set limits on permit application fees and annual rent fees that authorities could charge for the use or placement of utility poles within the right-of-way for small cell wireless providers. Authorities are defined in the bill to include the Department of Transportation, counties, townships, cities, and villages. The Department believes that the fees identified in the bill would be sufficient to cover the administrative costs associated with any work done in the portions of the ROW within its jurisdiction.

Local units of government do not currently have a standard rent or permitting fee structure for utility pole work done in the ROW. Fees most often vary based on actual costs, and may be larger or smaller than the limits identified in the bill due to several factors, including whether the ROW location is within an urban or rural setting, the available space within the ROW at that location, aesthetic considerations, potential damage to the ROW, and safety concerns. Some of these factors are addressed in the bill, as an authority could require a wireless provider to purchase insurance for work on the ROW and also could require a bond for any damage done to the ROW. The bill would prohibit an authority from charging a small cell wireless provider for unreasonable consultant fees associated with make-ready work, as defined in the bill. Many local units of government, particularly smaller counties, townships, and villages, do not have engineers or attorneys on staff who can review plans for work within the ROW. When those types of services would be required, the bill could prohibit those units of government from transferring the costs to the small cell wireless provider.

Senate Bill 894 (S-1) would subject existing zoning ordinances to Senate Bill 637 (S-2). It would not have a direct impact on the State or local units of government beyond its reference to the language found in Senate Bill 637 (S-2), which would exempt the activities of wireless providers within the ROW from zoning review.

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Fiscal Analyst: Michael Siracuse

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Bill Analysis @ www.senate.michigan.gov/sfa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.