



**Colorado
Legislative
Council
Staff**

HB17-1193

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0734 **Date:** July 26, 2017
Prime Sponsor(s): Rep. Kraft-Tharp; Becker J. **Bill Status:** Signed into Law
 Sen. Tate; Kerr **Fiscal Analyst:** Erin Reynolds (303-866-4146)

BILL TOPIC: SMALL CELL FACILITIES PERMITTING AND INSTALLATION

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Expenditures	Potential minimal workload increase.	
Appropriation Required: None.		
Future Year Impacts: Potential revenue impact and ongoing minimal workload increase.		

Summary of Legislation

The bill permits the use by right of small wireless service infrastructure, or "small cell facilities," in any zone — specifically on a local government entity's light poles, light standards, traffic signals, or utility poles in the rights-of-way, but not on any structure with tolling collection or enforcement equipment attached. The bill also clarifies that the right-of-way access available to telecommunications providers extends to broadband providers and includes small cell facilities.

Service providers may utilize the expedited permitting process established for broadband facilities when applying to build small cell facilities. A local government must process a single or a consolidated application for a small cell facility within 90 days after receiving a completed application. Local governments are prohibited from creating preferences or disadvantages to any provider in granting or withholding permits.

In addition to other permitting fees, local governments may assess a one-time per structure fee to providers in exchange for granting permission to attach small cell facilities in the right-of-way and owned by the local government. An exception to this application and fee process is made for micro wireless facilities installed on suspended, operator-owned cables between existing utility poles, for which a local government entity may require a single-use right-of-way permit in certain circumstances, as outlined in the bill.

Background

Small cell facilities. Small cell facilities are miniature cell towers that add additional capacity to a service providers' macrocell network of large cell towers. A low-power amplifier is placed on a pole or traffic signal and connected back to the base station through fiber optic cable. Each small cell facility covers an area ranging from approximately 800 to 1300 feet.

Telecommunications deregulation. While the Public Utilities Commission retains certain regulatory authority over the wholesale market and basic emergency service, telecommunications services were widely deregulated by the state legislature in 2014.

State cell tower leases. Several state agencies receive revenue from cell tower leases, including, among others, state colleges and universities in the Department of Higher Education (DHE), the Colorado Department of Transportation (CDOT), and the Department of Personnel and Administration (DPA).

State Revenue

The bill may impact future state revenue from cell tower leases and application fees. These impacts are not expected to occur in the next two fiscal years.

Colorado Department of Transportation. While CDOT may receive just compensation from right-of-way applications, it typically collects no revenue from the 200 to 300 applications it processes per year. If applications increase in future fiscal years, CDOT may consider collecting revenue to cover its processing costs.

State agencies with cell tower leases. To the extent that this legislation reduces the need for large cell towers, future cell tower lease revenue to DHE, CDOT, and DPA may be reduced.

State Expenditures

Beginning in FY 2017-18, to the extent that CDOT receives right-of-way permit applications for small cell facilities on state highways, workload will increase to issue the permits. The fiscal note assumes that the large majority of these applications will be submitted to municipal governments, and that the increase in applications can be processed as part of CDOT's current issuance of 200 to 300 right-of-way permits per year, so this overall potential workload increase is expected to be minimal. To the extent that small cell facilities are integrated on a federal highway right-of-way, CDOT is required to seek approval from the Federal Highway Authority. This fiscal note assumes these installations will rarely occur on federal highways, so this workload impact is also assumed to be minimal.

Local Government Impact

Local government public works, planning, and zoning departments will have an increase in revenue, workload, and potentially expenditures to the extent that permit applications are filed for small cell facilities and rights-of-way. These applications are expected to occur primarily in municipalities in the more populated areas of the state, though certain counties may also receive applications to a lesser degree. Application review periods are limited to 90 days. Cost recovery methods include a per pole or structure fee (pursuant to a formula in federal law that results in an approximately \$200 fee) and potential new application and permitting fees, as determined by the local governments. Workload may also increase to the extent that a local government is required to evaluate or make changes to its land use or zoning codes to adequately consider the use by right under the bill.

Effective Date

The Governor signed the bill into law on April 18, 2017, and it became effective on July 1, 2017.

State and Local Government Contacts

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Local Affairs
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