

HB 345 -- Uniform Wireless Communications Infrastructure Deployment Act

Sponsor: Cierpiot

This bill establishes the Uniform Wireless Communications Infrastructure Deployment Act to encourage and streamline the deployment of broadband facilities and to help ensure that robust wireless communication services are available throughout Missouri. In its main provisions, the bill:

(1) Prohibits an authority as specified in the bill with jurisdiction over wireless communications infrastructure from taking specified actions that could result in a non-uniform market for wireless service in Missouri. The prohibition does not include state courts having jurisdiction over land use, planning, or zoning decisions made by an authority. The prohibitions include:

(a) Requiring an applicant to submit information about or evaluate an applicant's business decisions with respect to its designed service, customer demand for service, or quality of its service to or from a particular area or site;

(b) Evaluating an application based on the availability of other potential locations for the placement of wireless support structures or wireless facilities including, without limitation, the option to add wireless infrastructure to existing facilities instead of constructing a new wireless support structure or for substantial modifications of a support structure or vice versa;

(c) Dictating the type of wireless facilities, infrastructure, or technology to be used by the applicant or requiring an applicant to construct a distributed antenna system in lieu of constructing a new wireless support structure, a substantial modification of a wireless support structure or installing wireless infrastructure on existing facilities;

(d) Requiring the removal of existing wireless support structures or wireless facilities, wherever located, as a condition for approval of an application;

(e) Imposing environmental testing, sampling, or monitoring requirements or other compliance measures for radio frequency emissions on wireless facilities that are categorically excluded under the Federal Communications Commission's rules for radio frequency emissions under 47 CFR 1.1307(b)(1);

(f) Establishing or enforcing regulations or procedures for RF signal strength or the adequacy of service quality;

(g) Rejecting an application in conformance with 47 U.S.C. Section 332(c)(7)(b)(4), in whole or in part, based on perceived or alleged environmental effects of radio frequency emissions;

(h) Imposing any restrictions with respect to objects in navigable airspace that are greater than or in conflict with the restrictions imposed by the Federal Aviation Administration;

(i) Prohibiting the placement of emergency power systems that comply with federal and state environmental requirements;

(j) Charging an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application that is not required for similar types of commercial development within the authority's jurisdiction. In no case should total charges and fees exceed \$500 for a collocation application or \$1,500 for an application for a new wireless support structure or for a substantial modification of a wireless support structure. An entity with jurisdiction or any third-party entity cannot include within its charges any travel expenses incurred in a third-party's review of an application, and in no event can an applicant be required to pay or reimburse an authority for consultation or other third-party fees based on a contingency or result-based arrangement;

(k) Imposing surety requirements, including bonds, escrow deposits, letters of credit, or any other type of financial surety, to ensure that abandoned or unused facilities can be removed unless the authority imposes similar requirements on other permits for other types of commercial development or land uses. If surety requirements are imposed, they must be competitively neutral, non-discriminatory, reasonable in amount, and commensurate with the historical record for local facilities and structures that are abandoned;

(l) Conditioning the approval of an application on the applicant's agreement to provide space on or near the wireless support structure for authority or local governmental services at less than the market rate for space or to provide other services via the structure or facilities at less than the market rate for the services;

(m) Limiting the duration of the approval of an application;

(n) Discriminating on the basis of the ownership, including ownership by the authority of any property, structure, or tower when establishing rules or procedures for siting wireless facilities or for evaluating applications;

(o) Imposing any requirements or obligations regarding the presentation or appearance of facilities including, but not limited to, those relating to the kind or type of materials used and those relating to arranging, screening, or landscaping of facilities;

(p) Imposing any requirements that an applicant purchase, subscribe to, use, or employ facilities, networks, or services owned, provided, or operated by an authority, in whole or in part, or by any entity in which an authority has a competitive, economic, financial, governance, or other interest;

(q) Conditioning the approval of an application on, or otherwise requiring, the applicant's agreement to indemnify or insure the authority granting approval in connection with the exercise of its police power-based regulations; or

(r) Conditioning or requiring the approval of an application based on the applicant's agreement to permit any wireless facilities provided or operated, in whole or in part, by an authority approving the facility or by any entity in which an authority has a competitive, economic, financial, governance, or other interest, to be placed at or connected to the applicant's wireless support structure;

(2) Allows authorities to continue to exercise zoning, land use, planning, and permitting authority within their territorial boundaries with regard to the siting of new wireless support structures, requirements. An entity subject to a request for a new wireless support structure will have 150 days to approve or deny an application. An entity subject to request for a substantial change to an existing wireless support structure will have 90 days to approve or deny an application. Procedures for extending these deadlines and fixing deficiencies are also specified in the bill. A party aggrieved by the final action of an authority or its inaction may bring an action for review in any court of competent jurisdiction. If the party prevails in court, it may recover reasonable attorney fees and costs;

(3) Requires an authority to review requests to connect wireless communications infrastructure to existing facilities for compliance with building permit requirements and consistency with the act. An entity has 45 days to approve or deny an application. However, procedures for expediting or extending the deadline and for fixing deficiencies are also specified in the bill;

(4) Prohibits an authority from instituting a moratorium on the permitting, construction, or issuance of approval of new wireless support structures, substantial modifications of wireless support

structures, or attachments to existing facilities of wireless communication infrastructure; and

(5) Requires the entities to offer leases or contracts at market rates for applicants to use public lands that are at least 25 years in duration. A process for the resolution of any disputes over fair market value lease payments using appraisers appointed by both parties is also specified in the bill.