

New Legislation Threatens to Limit Local Role in Telecommunications Infrastructure

By [Jacob Terrell](#) NACo Jul. 10, 2018

KEY TAKEAWAYS

[The recently introduced STREAMLINE Small Cell Deployment Act would limit local governments' ability to regulate wireless telecommunications infrastructure deployment. The STREAMLINE Small Cell Deployment Act would cap fees local governments can charge telecommunications companies for the use of locally owned land. Contact your congressional representatives and urge them to work with local governments on any new laws or regulations regarding wireless telecommunications infrastructure deployment.](#)

On June 28, U.S. Senate Commerce Committee Chairman Sen. John Thune (R-S.D.) and Sen. Brian Schatz (D-Hawaii) introduced legislation that would place limits on the authority of local governments to regulate the deployment of wireless communications infrastructure within their jurisdictions.

The new legislation, titled the Streamlining the Rapid Evolution and Modernization of Leading-edge Infrastructure Necessary to Enhance Small Cell Deployment Act (S. 3157), or STREAMLINE Small Cell Deployment Act for short, would limit fees local governments are currently able to assess telecommunications companies for the placement, construction or co-location of new wireless service facilities. The bill would restrict these fees to “actual costs,” capping what local governments can charge telecommunications companies for the use of locally owned rights-of-way and reducing or eliminating any application fees local governments may assess for processing incoming requests for construction.

Additionally, the new legislation would limit the amount of time local governments have to consider and respond to requests made by telecommunications companies to build new wireless service facilities on locally owned land. Specifically, the bill mandates that local governments respond to applications or requests from telecommunications companies related to new wireless service facilities on local infrastructure, including 5G Small Cells, within 60 days for co-located technology and 90 days for new wireless service facilities. The co-location requirements extend to buildings, light poles and public rights-of-way. In instances where local governments fail to respond to such requests, the federal government would extend authority to telecommunications companies to build on locally owned land without the consent or approval of local officials.

In March, NACo sent a letter to the Federal Communications Commission (FCC) opposing similar proposals that would limit the authority of local governments and curtail the ability of locals to raise revenue. S. 3157 is one of the first bills introduced in Congress that would alter local regulatory authority related to wireless telecommunications infrastructure deployment.

NACo encourages county officials to urge their congressional representatives to work with local governments on new laws or regulations that would speed the deployment of next-generation telecommunications infrastructure without limiting local zoning authority or limit the ability of local governments to raise revenue.

Pennsylvania Cities Voice Concerns Around 5G Bill, Loss of Local Control

Legislation in the state House of Representatives would clear the way for small cell antennas at the local level without money to support infrastructure, opponents say.

BY BOB FERNANDEZ, PHILLY.COM / JULY 31, 2018

SHUTTERSTOCK

(TNS) — A bipartisan group of 35 Pennsylvania House members, led by Rep. Frank Farry (R., Langhorne), are sponsoring legislation that would grease the bureaucratic wheels in local governments so that wireless companies can place thousands of 5G mini-cell antennas near roads, or in other publicly controlled rights of way.

5G is the next generation of wireless service that could lead to driver-less cars and robotic deliveries.

[The proposed legislation](#), introduced July 13 — and heavily lobbied by wireless carriers that support it — could avoid lawsuits over disputes on the small cell antennas in their towns, lawmakers say. Elected representatives from virtually all of the state's metropolitan areas signed on as sponsors, and the bill is headed toward hearings.

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But the Pennsylvania Municipal League opposes it as a giveaway to Big Telecom [that would gut local zoning in the state's boroughs and towns](#) and saddle municipal governments with extra costs.

Permits for the new wireless antennas would cost \$100 and carry a \$25 annual fee, which township officials say won't cover the municipal costs from the new poles or antennas.

"It's one-sided for the industry," said Richard J. Schuettler, executive director of the Pennsylvania Municipal League. "People want to use 5G and we want it to happen. But there needs to be a recognition of local government and its historic inherent right to manage rights of way."

The proposed bill, Schuettler added, would be onerous for local towns with "one zoning officer who has to move all this paper."

Many of these 5G wireless antennas will be attached to existing utility poles. But others would be placed on new poles. The proposed legislation also allows utility poles in neighborhoods without them, which would upset local residents.

Dan Cohen, a Pittsburgh lawyer who represents several Pennsylvania towns, said the proposed fees for 5G antennas or poles are "insulting to municipalities" and would "cover a fraction of what the municipal costs actually are."

The legislation includes a "shot clock" of 15 days for a town to say an application is complete and 60 days for approval or denial. In towns with fewer than 50,000 residents, the proposed legislation says that wireless carriers can submit up to 20 applications a month for small cell antennas, or poles, a month.

Local governments, the league says, should control these areas for the public good and not corporations.

The Pennsylvania legislation is part of a national campaign by wireless carriers that face huge costs offering faster service for smart phones, with similar 5G laws considered or passed in dozens of states. The federal government also has been looking at the issue.

Verizon Communications, AT&T, Sprint, and T-Mobile view the municipal rights-of-way in towns as wireless superhighways with poles sporting wireless antennas.

5G technology could create three million new jobs and \$275 billion in private investment by 2026 and lead to more data-driven services, including driver-less cars and robotic deliveries, according to telecom groups supporting it.

Advocates also say that 5G could offer consumers a competitive option to cable's wire-line internet services, [though Comcast has said it does not view 5G as a threat yet](#).

Farry said that many other states had enacted 5G legislation. Pennsylvania should get on the bandwagon before the courts or the federal government take more action, he said. "We are trying to find a common ground that works and that is not intrusive to the municipalities," Farry said. "There are clearly divergent interests."

Farry said that there would be compromises with the proposed legislation and he expected the final legislation to contain higher fees to be paid by the wireless carriers or those that operate the antennas, such as wireless infrastructure company Crown Castle. The company has major operations in Western Pennsylvania. In addition to lobbyists for wireless carriers, a special-interest grassroots group, the Pennsylvania Partnership for 5G, supports pro-5G legislation. [Crown Castle formed the group](#).

House Bill 2564 is the second attempt by Pennsylvania lawmakers to pass legislation on 5G small cells through the House Consumer Affairs Committee. Farry said the current proposal was an improvement — and less onerous on local towns — than the prior proposal. "Do they want to play ball?" Farry asked of municipal officials. "Or are they just going to say 'no' all the time?"

Robert Lovenheim, a supervisor in Monroe County's Smithfield Township who has studied the 5G small cells issue, suggested that the legislation "set up a state office of small antennae permits, funded by industry fees, that any municipality could use as the clearinghouse for advice and responses when deluged with permit applications." There will be a Consumer Affairs public hearing on the proposed legislation in Harrisburg on Aug. 9.

So far, no serious 5G legislation "has gained traction" in the Garden State, said Mike Cerra, assistant executive director of the New Jersey League of Municipalities. "It's definitely on our radar."

Wireless companies in New Jersey seem to be speaking directly with town officials or waiting for new federal laws or regulations, Cerra said.

AT&T, Verizon take aim at Lincoln, Nebraska, as small cell battle goes local

by [Mike Dano](#) | FIERCE WIRELESS

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The wireless industry continues to urge regulators at the federal, state and local levels to make it cheaper and easier for network operators and others to install wireless equipment including small cells in new locations. And some of the nation's biggest operators are starting to single out specific cities charging what they argue are excessive small cell deployment fees.

It appears that the officials in Lincoln, Nebraska, have emerged as some of the industry's primary antagonists.

"Verizon recently concluded that it would not deploy additional small cells in Lincoln, NE, at this time because of the \$1,995/year attachment rate," the operator [said in a new filing with the FCC](#)(PDF).

"AT&T has paused its 2018 small cell deployment plans in large part due to the city's demand for an annual recurring fee of \$1,995 per node," added AT&T [in its own filing referencing Lincoln](#) (PDF).

[Lincoln](#) is the capital of Nebraska, and with about 284,000 residents it's the second-most populous city in the state. But, according to two of the nation's biggest wireless network operators, city officials are punching above their weight.

"Competitive demands will force carriers to deploy small cells in the largest cities," AT&T explained. "But, when those largest cities charge excessive fees to access ROWs [rights of way] and municipal ROW structures, carriers' finite capital dollars are prematurely depleted, leaving less for investment in mid-level cities and smaller communities. ... Unfortunately, many mid-level cities and smaller communities also charge excessive ROW and ROW infrastructure access fees on the faulty premise that they are matching the so-called 'market rate' demanded by the large cities."

Lincoln isn't alone, of course. Operators ranging from Verizon to Sprint have pointed out what they argue are excessive fees in a variety of other locations across the country:

- AT&T said it is "at an impasse" with the city of Oakland, California, for a deployment of 60 small cell nodes because the city is charging a recurring rate of \$2,300 per node.
- AT&T also said it has delayed its deployment in locations in Maryland due, in part, to Howard County's nonrecurring fee of \$10,000 on top of \$1,800 per permit, annual recurring fees of \$25,000 for ROW rights and \$1,000 per small cell node.

- Verizon said Seattle is seeking \$1,872 per pole per year with a 4% escalator “resulting in minimal small cell deployment” in the city.
- Sprint said it has deployed more than 500 small cells in the City of Los Angeles, but none in Los Angeles County partly because of \$9,820 in application fees there.

At issue is carriers’ desire to densify their networks through the deployment of small cells. These devices are essentially mini cell towers that can be installed on light poles and other objects, bringing cell connections closer to users. Cities have long charged for access to such locations, but the wireless industry in general has argued excessive fees and slow permitting processes are preventing them from quickly moving to new technologies including 5G.

Not surprisingly, telecom lobbyists are working to pass new regulations at the state and federal levels that would smooth small cell deployments partly by lowering fees. Already such guidelines have been passed by the FCC and more than 20 state legislatures.