

Proposed repeal of Colorado HB17-1193, Small Cell Facilities Permitting And Installation

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Bill Summary

This bill repeals Colorado HB17-1193, Small Cell Facilities Permitting And Installation, and establishes the rights of the people of Colorado and their municipal and county governments to determine the approval or denial of permits to broadband providers for use-by-right, siting, and fees for small cell facilities and networks, as well as access to government structures in the construction and maintenance of wireless and broadband service facilities.

Section 1. Findings

- (a) Whereas, under Colorado HB17-1193, Small Cell Facilities Permitting And Installation, the people of Colorado have been stripped of their rights and authority to use local land use codes to implement community preferences in the siting and deployment of wireless and broadband infrastructure;
- (b) Whereas, the people of Colorado have been limited to acceptance of below-market fees and prohibited from just compensation for permitting of wireless facilities, construction of infrastructure on publicly-owned buildings, and any extra costs incurred from private broadband provider companies;
- (c) Whereas, the people of Colorado have been subject to strictures of uniquely preferential shortened time periods for approval of permit applications to private broadband provider companies;
- (d) Whereas, “permitted use by right” has been established to private broadband provider companies over publicly-owned land of the people of Colorado;
- (e) Whereas, the people of Colorado have been forced without legal recourse to accept deployment of wireless infrastructure within residential neighborhoods, reduced values of property, and risks to health and general welfare;
- (f) Whereas, HB17-1193 is a replication of rulings by the Federal Communications Commission in “Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment” (83 Fed. Reg. 51867) and the Federal Communications Commission’s Declaratory Ruling in “Third Report and Order and Declaratory Ruling” (FCC 18–111) to expropriate public rights-of-way of the people of Colorado that are under legal and legislative challenge on a Federal level;
- (g) Therefore, be it enacted by the General Assembly of the State of Colorado to provide that Colorado HB17-1193, Small Cell Facilities Permitting And Installation, shall have no force or effect AND IS HEREBY REPEALED on the day of the year 2021 following the expiration of the final adjournment of the general assembly, excepting permit applications qualified and confirmed prior to that date;

- (h) Therefore, all matters concerning installation of small cell wireless service infrastructure within municipal and county jurisdictions shall be governed by the land use codes of those jurisdictions and under the legal authority of those jurisdictions to approve or deny any and all permits, and any parts or provisions therein.

Section 2. Authority

This bill shall be enacted pursuant to the inherent right of the people of Colorado to govern their own communities, including, without limitation, the Declaration of Independence's assertion that governments are instituted to secure the rights of people, and the Colorado Constitution's recognition that all political power is inherent in the people.