Wireless Communications Infrastructure

Priority Statement:
The Florida League of Cities OPPOSES efforts to strip cities of the ability to regulate the placement of unsightly and potentially unsafe wireless communications equipment on city property, in city rights of way.

Talking Points:
Florida's communities embrace the latest innovations in technology to improve the lives of our citizens. But it's outrageous for giant corporations to be empowered to trample on the authority and responsibility of our local elected officials to protect public safety and the aesthetics of our communities. That's exactly what will happen if telecom companies are given open and unchecked access to disrupt public equipment and our rights-of-way – paid for with our tax dollars.

1. The Florida Legislature is considering SB 596/HB 687, a bad bill that could become a dangerous new law. It would:
   - Blatantly interfere with the ability of hundreds of communities to protect public safety and maintain their local, unique look and feel.
   - Allow unchecked proliferation of new poles and equipment that could jeopardize public safety by interfering with pedestrians, enticing kids to climb recklessly, creating additional debris in a hurricane, and tying up space that should be reserved for police/fire radio antennas.
   - Nullify the wisdom of Florida cities to bury utility lines. Those communities would be forced to allow ugly, invasive towers up to 60 feet high on public-access land.
   - Accept refrigerator-sized equipment glommed onto existing structures or sidewalks in public rights-of-way, creating a permanent eyesore.

2. The bill leaves taxpayers defenseless:
   - It amounts to a corporate handout, allowing giant for-profit companies to install infrastructure on publicly owned structures at almost no cost to them – they make the smallest investment possible, building on the backs of the taxpayers.
   - Taxpayers would be burdened with the expense of making sure plans for towers meet building codes – even if the wireless companies later drop those plans.
   - Once the telecom companies move on to the next technology, communities would be stuck cleaning up the abandoned equipment – now junk – that they leave behind.

3. The legislation stomps out local decision-making:
   - It would strip decision-making from the hands of the local community's elected officials.
   - Big Telecom would win its way for its private agenda – and stick everyone else as the loser.

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- Telecom companies would be given preferential treatment to "cut in line" in the local permit review process, making everyone else second-class citizens.

There's time to stop this statewide plan that could disrupt every local community. Before this bad bill becomes a dangerous law, state legislators need to step up, speak out, and fight for the best interests of the local constituents who sent them to Tallahassee – rather than boost the agenda and profits of giant corporations.

Background:
Wireless communications infrastructure, which ranges in size from a small suitcase to a refrigerator, is seen as a key enabler of high-speed mobile broadband, particularly in crowded, urban areas where the macro network can't keep up with demand. Similarly, small cells can provide the level of network density needed to support as-yet-unstandardized "5G" services.

Several states are considering legislation pushed by telecommunications providers that would apply to the deployment of small cell communications devices on municipal infrastructure. Generally, the legislation being pursued throughout the nation would:

- Prohibit local governments from regulating the placement of small cell wireless infrastructure;
- Establish unrealistic time frames and conditions on local government permitting of wireless communication attachments to local government infrastructure;
- Restrict the fee that may be charged for the use of a city structure for a wireless communications attachment to a nominal $15 per year, which does not provide consideration for the use of taxpayer-owned public rights of way or cover maintenance costs for the use of city structure; and
- Ignore local governments' need to underground utilities infrastructure for safety and aesthetics, while allowing an unlimited number of new poles in the rights of way with no regard to zoning regulations.

Adoption of this legislation would set a terrible precedent for local control. Decisions about the safety and aesthetics of municipal infrastructure would be taken out of the hands of local decision makers and placed into the hands of corporations with no local interest. Potential profit would be the sole factor in determining the placement of such infrastructure.

The proposed legislation commandeers publicly owned electric poles, light poles and buildings paid for by taxpayers for the benefit of a for-profit industry, without any regard to the unique characteristics and needs of each individual municipality. This legislation will enable the proliferation of small wireless facilities that are not only unsightly, but could be potentially unsafe, particularly during a strong storm.

Status:
CS/CS/CS/SB 596 (Hutson) and **CS/HB 687** (La Rosa), as originally filed, preempted local government control of taxpayer-owned rights of way for placement of "small" or "micro" wireless antennas and equipment. Among their various provisions, the bills bar local governments from prohibiting or regulating the placement of "small" or "micro" wireless facilities on or next to existing cellphone towers and utility poles within municipally owned rights of way. The bills also prohibit local governments from imposing minimum distances between small wireless equipment.

Local governments are given limited authority to limit the height of poles and antennas to no more than 10 feet above the tallest utility pole within 500 feet, or 60 feet if there is currently no pole in the vicinity. The infrastructure can be as big as six cubic feet in volume (for instance, 2 feet by 3 feet). All other wireless equipment associated with the facility cumulatively can be as big as 28 cubic feet in volume (the approximate size of a small refrigerator). The bills would allow an application submitted to a local government for a permit to collocate small wireless facilities to be automatically approved after 60 days if a local government does not approve or deny it within that timeframe. The bill was amended in committee to exclude the Florida Department of Transportation, deed-restricted retirement communities that have more than 5,000 residents and have underground utilities for electric transmission or distribution and municipalities that are located on a coastal barrier island that has a land area of less than five square miles and fewer than 10,000 residents.

CS/CS/CS/SB 596 was amended in committee to increase the price per attachment per year from $15 to $100. The amendment provides an additional 30 days after the date of the permit request to negotiate an alternative location for the equipment or facilities. In addition, the bill was amended to restrict the height of a small wireless facility to no more than 10 feet above the utility pole. Unless waived by the local government, the height for a new utility pole is limited to the tallest existing utility pole located in the right-of-way. If there is no utility pole within 500 feet of the proposed location, then the new utility pole can be no taller than 50 feet. An applicant seeking to collocate small wireless facilities can file a consolidated application and receive a single permit for the collocation of no more than 30 small wireless facilities. The amendment allows for some minimum design standards and for the wireless communications provider and the local government to negotiate those design standards at the local level. CS/CS/CS/SB 596 passed the Senate Rules Committee unanimously on April 19 and is now ready for action by the full House. CS/HB 687 passed the House Energy and Utilities Subcommittee (12-2) and is now in the House Commerce Committee, its last stop before going to the floor for a vote by the full House.

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