



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Senate Bill 425

Senate Amendment 2

Memo published: October 31, 2017

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2017 SENATE BILL 425

Senate Bill 425 (“the bill”) generally prescribes the authority of the state or a political subdivision (i.e., a city, village, town, or county) regarding: (1) a wireless provider’s use of a right-of-way; (2) collocation¹ of small wireless facilities; (3) access to governmental poles and structures; (4) local authority over communications facilities; (5) dispute resolution; (6) utility poles owned by investor-owned electric utilities; and (7) setback requirements on certain mobile service support structures.

SENATE AMENDMENT 2

Rates and Fees for Use of Rights-of-Way

Under **the bill**, the state or a political subdivision may charge a wireless provider a rate or fee for use of a right-of-way to construct or collocate a small wireless facility or wireless support structure in the right-of-way. The bill applies several conditions to the rate or fee that the state or a political subdivision may charge, including a condition that the fee or rate may not result in double recovery if existing fees, rates, or taxes already recover the direct and actual cost of managing the right-of-way.

Senate Amendment 2 provides that the fee or rate charged by the state or a political subdivision may not result in double recovery **from the wireless provider**.

¹ “Collocate” or “collocation” means the placement, mounting, replacement, modification, operation, or maintenance of a wireless facility on or adjacent to a wireless support structure or utility pole.

Right of Access to Rights-of-Way

With certain exceptions, **the bill** provides that a wireless provider has the right to collocate small wireless facilities and construct, modify, maintain, and operate utility poles, wireless support structures, and other related facilities and structures along, across, upon, and under a right of way. Under the bill:

Such facilities and structures may not obstruct or hinder travel, drainage, maintenance, or the public health, safety, and general welfare on or around the right-of-way, or obstruct the legal use of the right-of-way for other communications providers, public utilities, cooperative associations organized under ch. 185 for the purpose of producing or furnishing heat, light, power, or water to their members only, or pipes or pipelines transmitting liquid manure.

Senate Amendment 2 specifies that the restriction quoted above applies not only to facilities and structures in the right-of-way, but also activities related to the installation and maintenance of the facilities and structures. Senate Amendment 2 also allows a political subdivision to enact an ordinance consistent with this restriction.

Historic and Underground Districts

The bill allows a political subdivision to enact an ordinance prohibiting a communications service provider from installing structures in the right-of-way of a historic district or an underground district, except that the ordinance may not prohibit collocations or the replacement of existing structures. Under the bill, this provision only applies to ordinances enacted on or before January 1, 2014.

Senate Amendment 2 eliminates the condition that an ordinance described above must have been enacted on or before January 1, 2014.

BILL HISTORY

Senate Amendment 2 was introduced by Senator LeMahieu on October 20, 2017. On October 24, 2017, the Senate Committee on Elections and Utilities voted to recommend adoption of Senate Amendment 2 on a vote of Ayes, 5; Noes, 0. The committee recommended passage of the bill, as amended, on a vote of Ayes, 4; Noes, 1.

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