



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2019 Senate Bill 239	Senate Amendment 1
<i>Memo published: June 4, 2019</i>	<i>Contact: Scott Grosz, Principal Attorney</i>

2019 SENATE BILL 239

The bill creates a statewide regulatory framework for deployment by wireless services and infrastructure providers of small wireless equipment and facilities. The bill creates a definition for a “small wireless facility,” which is a wireless facility of a certain size used for the new technology generally referred to as “5G” or “small cell” technology.

The regulatory framework includes provisions regarding the placement of small wireless facilities in rights-of-way, application and permit fees, height and size restrictions, maintenance and access requirements, enforcement of existing contracts for up to two years, indemnification provisions, and dispute resolution requirements. While not directly related to the deployment of small wireless facilities, the bill also contains provisions relating to setback requirements for mobile service support structures, limits on regulation of micro wireless facilities, and the creation of a rights-of-way study committee.

SENATE AMENDMENT 1

Among its provisions, the bill specifies that, except as related to small wireless facilities, *and except as otherwise specifically required by federal or state law*, a political subdivision may not do any of the following:

- Adopt or enforce regulations or requirements on the placement or operation of communication facilities in rights-of-way.
- Regulate any communications service.

- Impose or collect any tax, fee, or other charge for the provision of additional communications services over a communications services provider's communication facilities in a right-of-way.

Senate Amendment 1 modifies this provision to apply *except as otherwise authorized by federal or state law*. Accordingly, as amended, the types of regulations and charges described above could be imposed so long as authorized by other statutes under current law, rather than being limited only to situations where such regulations and charges were specifically required.

Additionally, with respect to the study committee created by the bill, Senate Amendment 1 modifies part of the committee membership to remove the conditions related to two representatives of the electric distribution community (i.e., that one represents a for-profit business and one represents a cooperative association) and adds two additional members to the committee as follows:

- One representative of a cooperative association.
- One representative of a municipal electric utility.

Under the bill and amendment, each of these representatives would be appointed jointly by the speaker of the Assembly and the Senate majority leader.

BILL HISTORY

2019 Senate Bill 239 was introduced by Senator LeMahieu and others on May 24, 2019. Senate Amendment 1 to the bill was offered by Senator LeMahieu on May 30, 2019. On May 31, 2019, the Senate Committee on Utilities and Housing recommended adoption of Senate Amendment 1 and passage of Senate Bill 239, as amended, on successive votes of Ayes, 4; Noes, 1.

SG:ty