



Testimony

Unified Government Public Relations
701 N. 7th Street, Room 620
Kansas City, Kansas 66101

Mike Taylor, Public Relations Director
913.573.5565 mtaylor@wycokck.org

Prohibiting Cities from Requiring Wireless Franchise Contracts SB 68

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House Energy, Utilities and Telecommunications Committee

The Unified Government of Wyandotte County/Kansas City opposes Senate Bill 68 because it is unnecessary to promote 5G technology.

The UG takes its responsibility to manage the use of public right-of-way very seriously. There are still many questions about how this legislation will effect that duty to protect the public and use of their land.

For context, I want to remind the committee that KCK was the first city in the nation, out of 1,100 who competed, to be selected by Google for their super fast fiber. We were selected for several reasons, but one of those reasons was because of our ability and agreement to work with Google on a development agreement which made it easy to enter our city.

SB 68 calls for Kansas to mandate special provisions for AT&T, Verizon, Sprint and other wireless providers to use publicly-owned land to install the tools needed to provide wireless technology. We all use our cellphones and computers and want them to work at lightening speed. But don't forget... these are businesses which make a lot of money selling these services and now they are asking for special treatment which will make these services even more profitable than they already are by using land owned by the public.

Wireless providers have also made it clear that if cities exercise their responsibility to protect public owned land, they will take their investment in new technolgy elsewhere. They are businesses and their goal is to make as much money as possible, which is what this legislation is really about. They will launch 5G technology where they determine it is demanded by customers and profitable. Whether this bill passes or not, there will not be 5G technology launched in Hays, Hoxie or St. Johns Kansas anytime soon.

To be clear, the Unified Government is less concerned about the revenues generated by wireless companies under traditional franchise agreements as it is about management of the public right-of-way.

SB 68 could result in overbuilding of small cell nodes on utility poles as we could not require them to co-locate in existing conduit or on utility and traffic poles, so they could potentially be located on every utility pole. Local governments will no longer be able to require wireless providers to provide calculations to prove the spacing and height they need, so potentially each wireless provider company (Google, TimeWarner-Charter, Spectrum, AT&T, Verizon, Sprint, Mobilitie, Extenet, MCI, Sunflower Cable-Wide, Open West, Unite Private) could locate on every pole.

Our community is already seeing an increase in right-of-way impacts. In many cases our residents are experiencing their front yards being excavated over and over again. We have concerns about how SB 68 will impact our ability to require wireless providers and infrastructure providers to repair the damages they may do to curbs, gutters and front yards. We also have concerns that by treating wireless companies as “special,” other utilities will be next in line and also ask for special treatment.

We support the proposed amendment offered by Overland Park. Please listen and review the impacts of SB 68 carefully before you act.

18 (C) may assess a wireless services provider or a wireless
19 infrastructure provider a fixed right-of-way access fee for each small
20 cell facility that the provider deploys that requires use of the city's public
21 right-of-way, but such fee shall not be based on such provider's gross
22 receipts derived from services provided within the city's corporate limits.

23 (2) The provisions of paragraph (1) shall only apply ~~to a wireless~~
24 ~~infrastructure provider~~ to the extent of such provider's operations and
25 services as a provider for the deployment of small cell facilities in the
26 city's public right-of-way that are used for the provision of wireless
27 services. Nothing in this subsection shall be construed to apply to such
28 provider's other operations and services as a utility or otherwise ~~or have~~
29 any effect on any franchise that is related to such other operations and
30 services.

, or for the
purpose of wired
backhaul
facilities,

31 (3) Nothing in this subsection shall be construed as prohibiting a
32 city from requiring a telecommunications local exchange service
33 provider ~~to enter into a valid contract franchise ordinance pursuant to~~
34 this section.

or a provider or any
other non-wireless
services