



Contra
Costa
County

To: Board of Supervisors
From: LEGISLATION COMMITTEE
Date: September 25, 2018

Subject: Consider Advocacy Position of "Oppose" on S. 3157 (Thune) STREAMLINE Small Cell Deployment Act

RECOMMENDATION(S):

ADOPT a position of "Oppose" on S. 3157 (Thune) , STREAMLINE Small Cell Deployment Act, as recommended by the Legislation Committee.

AMEND the adopted Contra Costa County Federal Platform to make conforming changes.

FISCAL IMPACT:

The legislation would cap the amount of fees local governments can charge telecom companies for the placement, construction, or collocation of new wireless facilities. Fees would need to be based on "actual costs and direct costs."

BACKGROUND:

At its August 13, 2018 meeting, the Legislation Committee considered this matter and voted unanimously to recommend that the Board of Supervisors take a position to "Oppose" the STREAMLINE Small Cell Deployment Act.

On June 28, U.S. Senate Commerce Committee Chairman Sen. John Thune (R-S.D.) and Sen. Brian Schatz (D-Hawaii) introduced legislation that would place limits on the authority

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **09/25/2018** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Candace Andersen, District II
Supervisor
Karen Mitchoff, District IV
Supervisor

ABSENT: Diane Burgis, District III
Supervisor
Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 25, 2018

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: L. DeLaney,
925-335-1097

cc:

of local governments to regulate the deployment of wireless communications infrastructure within their jurisdictions.

The new legislation, titled the Streamlining the Rapid Evolution and Modernization of Leading-edge Infrastructure Necessary to Enhance Small Cell Deployment Act (S. 3157), or STREAMLINE Small Cell Deployment Act for short, would limit fees local governments are currently able to assess telecommunications companies for the placement, construction or co-location of new wireless service facilities. (

BACKGROUND: (CONT'D)

Attachment A) The bill would restrict these fees to “actual costs,” capping what local governments can charge telecommunications companies for the use of locally owned rights-of-way and reducing or eliminating any application fees local governments may assess for processing incoming requests for construction.

Additionally, the new legislation would limit the amount of time local governments have to consider and respond to requests made by telecommunications companies make to build new wireless service facilities on locally owned land. Specifically, the bill mandates that local governments respond to applications or requests from telecommunications companies related to new wireless service facilities on local infrastructure, including 5G Small Cells, within 60 days for co-located technology and 90 days for new wireless service facilities. The co-location requirements extend to buildings, light poles and public rights-of-way. In instances where local governments fail to respond to such requests, the federal government would extend authority to telecommunications companies to build on locally owned land without the consent or approval of local officials. In March, NACo sent a letter to the Federal Communications Commission (FCC) opposing similar proposals that would limit the authority of local governments and curtail the ability of locals to raise revenue. S. 3157 is one of the first bills introduced in Congress that would alter local regulatory authority related to wireless telecommunications infrastructure deployment. NACo encourages county officials to urge their congressional representatives to work with local governments on new laws or regulations that would speed the deployment of next-generation telecommunications infrastructure without limiting local zoning authority or limit the ability of local governments to raise revenue."

In addition to that legislation, last week, the Federal Communications Commission (FCC) released a draft [*Declaratory Ruling and Third Report and Order*](#), aimed at accelerating the deployment of next-generation 5G wireless networks. Counties own substantial amounts of public rights-of-way, which many communication providers use to construct their own communications networks. The Commission's objective of finding new ways to effectively deploy broadband technologies, especially in underserved communities, is a shared objective, but the proposed language would hinder a county's ability to fulfill public health and safety responsibilities during the construction and modification of broadcasting facilities.

Specifically, the declaratory ruling and report and order would:

- **Create two new categories of "shot clocks"** that local governments must completely review applications for proposed small cell siting within before facing potential law suits from service providers.
- More restrictive state laws will remain in effect and will not be replaced by this order. **Determine that exceeding the shot clock is a "prohibition on the provision of services."**
- **Limit application fees for all small wireless facilities** to \$500 for up to five sites

and \$100 per site thereafter.

- **Limit recurring fees for small cells in public rights-of-way** to a "reasonable approximation" of the locality's "objectively reasonable costs" for maintaining the rights-of-way, which the FCC defines as \$270 per site, per year.
- **Limit allowable local aesthetic requirements**, including undergrounding requirements for wireless facilities, which the FCC would constitute as an illegal prohibition of service by a local government.

If approved at the FCC's September 26 open meeting, the new regulations would go into effect 30 days after publication in the Federal Register. Counties would then face enforcement action if wireless providers or other small cell applicants challenge them in court based on noncompliance with the above requirements.

NACo and CSAC both requested that counties send in letters to object to the draft order. Board Chair Karen Mitchoff authorized a letter to be sent to the FCC.

ATTACHMENTS

S. 3157 Bill Text