

HCS SS SCS SB 653 -- MUNICIPAL UTILITY POLES

SPONSOR: Lager

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Utilities by a vote of 18-0.

Currently, "pole attachment" means an attachment by a video service provider or a telecommunications or other communications-related service provider to a pole owned by a municipal utility but not a wireless antenna attachment or an attachment by a wireless communications provider to a pole. The bill revises the term "pole attachment" as it applies to the Uniform Wireless Communications Infrastructure Deployment Act to specify an attachment by an attaching entity, including a video service provider, a telecommunications provider, or other communications-related service provider to a pole owned or controlled by a municipal utility or municipality. A municipal utility or municipality may deny an attaching entity access to the utility's poles if there is insufficient capacity or for reasons of safety and reliability and if the attaching entity will not resolve the issue.

In the event of a dispute between the parties, either party may also bring an action for review in any court of competent jurisdiction. Currently, either party may seek review by a single arbitrator mutually agreeable to the parties or, in the absence of an agreement, by means of binding arbitration conducted by the American Arbitration Association. Nothing can deny any party the right to a hearing before the court.

The attaching entity may proceed with its attachments during the pendency of the dispute at the current established rental rate. The attaching entity must comply with applicable and reasonable engineering and safety standards and hold the municipal pole owner or controlling authority of the municipality harmless for any liabilities or damages incurred that are caused by the attaching entity.

Allows municipalities to revoke pole attachment agreements based on a substantial breach of the agreement. The conditions for substantial breach are specified in the bill. The bill also allows municipalities or municipal utilities to remove or modify pole attachments in a manner consistent with industry standards in cases of threats to health and safety. Municipalities or municipal utilities must attempt to notify pole owners prior to undertaking these modifications.

These provisions cannot supersede existing pole attachment agreements established prior to the effective date of the bill.

PROPONENTS: Supporters say that the bill is a reasonable way to create a uniform fee structure based on federal rules for pole attachments. The bill contains numerous exceptions for municipal regulation based on health and safety, pole capacity, and reliability.

Testifying for the bill were Missouri Cable Telecommunications Association; Century Link; Google; Verizon; AT&T; and Missouri Telecommunications Industry Association.

OPPONENTS: Those in opposition to the bill say that federal guidelines explicitly exempt application to municipalities and are not intended to be used for pricing pole attachments in this manner. Most cities have good working relationships with utilities and wish to be able to contract in a free and fair manner without mandates. The bill has been amended to account for some safety and reliability concerns.

Testifying in opposition to the bill were Missouri Association of Municipal Utilities; Missouri Municipal League; Jim Franklin; Robert Stevenson; Darryl Dunlap; and Bob Jackson.