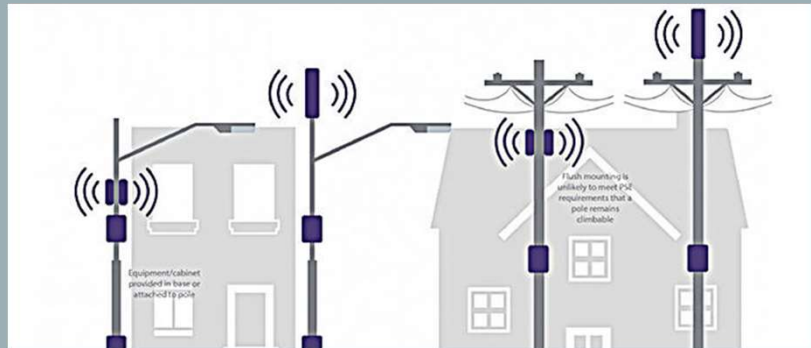
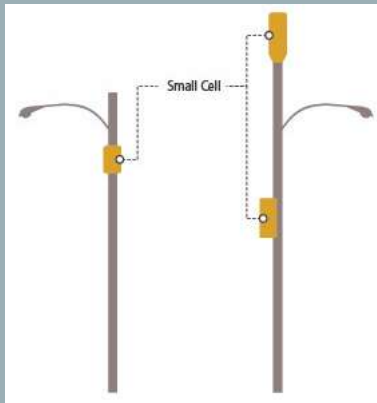


WIRELESS TELECOMMUNICATIONS SMALL WIRELESS FACILITIES SENATE BILL 76 — ACT#2021-5



PURPOSE

The purpose of this Act is:

1. To establish a procedure to authorize wireless providers to collocate, mount, or install small wireless facilities on existing poles, or install new poles on the right-of-way of the state or any agency, county, or municipality thereof;
2. To exempt small wireless facilities from certain zoning review and approval procedures. To establish a procedure for the permitting of the development of small wireless facilities and poles in the rights-of-way of the state or any agency, county, municipality thereof; and
3. To establish rates and fees for all permits for small wireless facilities.

SECTION 1: DEFINITIONS

ANTENNA. An apparatus designed for the purpose of emitting radio frequency, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service. For purposes of this subdivision, the term does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

ANTENNA EQUIPMENT. Equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed locations as the antenna, and, when collocated on a structure, mounted or installed at the same time as the antenna.

ANTENNA FACILITY. An antenna and associated antenna equipment.

APPLICATION. A request by a wireless provider to collocate, mount, or install small wireless facilities on or adjacent to an existing, new, or replacement pole; or to install, modify, or replace a pole associated with a small wireless facility.

AUTHORITY. The state or any agency, county, municipality, district, or instrumentality thereof. The term does not include state courts having jurisdiction over an authority.

COLLOCATE or COLLOCATION. Either of the following:

1. Mounting or installing an antenna facility on a pre-existing structure.
2. Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

COMMUNICATIONS FACILITY. The set of equipment and network components, including wires, cables, and associated facilities, used by a communications service provider.

COMMUNICATIONS SERVICE. Any of the following: Cable service, as defined in 47 U.S.C. § 522; information service, as defined in 47 U.S.C. § 153; telecommunications service, as defined in 47 U.S.C. § 153; and wireless service.

COMMUNICATIONS SERVICE PROVIDER. A provider of communications services.

ELECTRIC PROVIDER. An entity listed in subsection (a) of Section 6.

MICRO WIRELESS FACILITY. A small wireless facility that meets both of the following qualifications:

1. It is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height.

Any exterior antenna is no longer than 11 inches.

NETWORK INTERFACE DEVICE. The telecommunications demarcation device and cross-connect point adjacent to the wireless facility or the structure supporting the wireless facility and demarcating the boundary with any wireline backhaul facility.

POLE. A pole in the right-of-way that is or may be used in whole or in part by or for wireline communications, lighting, traffic control, signage, or a similar function, or for the collocation of small wireless facilities. The term does not include a building; billboard; monopole; tower, either guyed or self-supporting; or an electric distribution or transmission structure. Poles owned by an electric provider are excluded from this Act under Section 6.

SMALL WIRELESS FACILITY. A facility that meets each of the following conditions:

1. The facilities are any of the following:
 1. Mounted on structures 50 feet or less in height, including the antennas.
 2. Mounted on structures no more than 10 percent taller than other adjacent structures.
 3. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
 4. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume.
 5. All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.
 6. The facilities do not require antenna structure registration under 47 C.F.R. Part 17.
 7. The facilities are not located on tribal lands, as defined under 36 C.F.R. § 800.16.
 8. The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

STRUCTURE. A pole; tower, as defined in 47 C.F.R. § 1.6100(b); base station, as defined in 47 C.F.R. § 1.6100(b); or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of wireless service.

WIRELESS FACILITY. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including both of the following: Equipment associated with wireless communications; and radio transceivers, antennas, coaxial, metallic, or fiber-optic cable located on, in, or under a pole or wireless support structure, or otherwise adjacent to such structures, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include any of the following: The structure or improvements on, under, or within which the equipment is collocated; wireline backhaul facilities; or coaxial, metallic, or fiber-optic cable that is between structures or that is otherwise not adjacent to a particular antenna or the structure supporting the antenna.

WIRELESS INFRASTRUCTURE PROVIDER. Any person, including a person authorized to provide telecommunications service in the state, that builds or installs facilities for the provision of wireless service, but that is not either a wireless service provider or an electric provider.

WIRELESS PROVIDER. A wireless infrastructure provider or a wireless service provider.

WIRELESS SERVICE. Any services using licensed or unlicensed radio spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public. The term does not include services provided by an electric provider using wireless devices, facilities, or equipment in support of services of the electric provider.

WIRELESS SERVICE PROVIDER. A person who provides wireless service.

WIRELINE BACKHAUL FACILITY. An above-ground or underground wireline facility used to transport communications data or other electronic communications from a wireless facility network interface device to a communications network.

SECTION 2: DO'S AND DON'TS SMALL WIRELESS FACILITIES / POLE INSTALLATION SUMMARY

- a. An authority may not deny a wireless provider the right to collocate, mount or install small wireless on or adjacent to existing, new, or replacement poles in the county's right-of-way. An authority may not deny a wireless provider the right to use its own poles, or with permission of the owner, a third party's poles, if poles are within, under, or across a right-of-way controlled by an authority.
- b. Provides Pole Dimension Instructions.
- c. The small wireless facilities and poles should be installed and maintained in accordance with an authority's requirements that are not in conflict with this Act or then existing final order of the Federal Communications Commission as to not obstruct or hinder usual travel and public safety.
- d. Wireless provider may exceed the height requirements in this section subject to applicable zoning regulations or other applicable requirements of authority.

SECTION 2: DO'S AND DON'TS SMALL WIRELESS FACILITIES / POLE INSTALLATION SB / ACT#2021-5 TEXT

- a. An authority may not deny a wireless provider the right, as a permitted use subject to Section 3 and the authority's requirements not in conflict with this Act or a then-existing final order of the Federal Communications Commission (FCC), to do either of the following:
 1. Collocate, mount, or install small wireless facilities on or adjacent to existing, new, or replacement poles in the right-of-way.
 2. Install, modify, or replace its own poles, or, with the permission of the owner, a third party's poles, associated with a small wireless facility, along, across, upon, and under the right-of-way controlled by the authority.
- b. For purposes of this section, any new or modified pole may not exceed the greater of either of the following:
 1. Ten feet in height above the tallest existing pole in place as of July 1, 2021, located within 500 feet of the new pole in the same right-of-way controlled by the authority.
 2. Fifty feet above ground level.
- c. The small wireless facilities and associated poles shall be installed and maintained in accordance with the authority's requirements not in conflict with this Act or a then-existing final order of the FCC and as not to obstruct or hinder the usual travel and public safety on the right-of-way and adjacent roads and bridges or obstruct the legal use of the right-of-way by utilities.
- d. A wireless provider may collocate a small wireless facility and install, maintain, modify, operate, and replace a pole that exceeds these height limits along, across, upon, and under the right-of-way, subject to applicable zoning regulations or other applicable requirements of the authority.

SECTION 3: APPLICATION PROCESS SUMMARY

- a. Small wireless facilities and associated poles are exempt from zoning review or approval if located in a right-of-way under control of authority or otherwise comply with this Act and a then-existing final order of the Federal Communications Commission.
- b. Within 10 days from application receipt, the authority must determine and notify applicant whether application is complete. If incomplete, authority shall notify applicant in writing and specify missing information and specify requirement creating obligation to supplement. If notice of incompleteness is provided within 10 days of receiving application, the processing deadline restarts at 0 when the applicant supplements.
- c. Deadline for approval or denial of application (not requiring a notice of incompleteness) is 60 days for applications involving existing poles and 90 days for applications involving new or replacement pole. Processing deadline may be extended by agreement. If application neither approved or denied after passage of deadline, applicant can provide formal notice to authority regulates a ruling within 20 days and if not on 21-day application is granted.
- d. Authority shall approve application if it complies with authority requirements that are written and adopted in advance.
- e. Applicant may consolidate applications for small wireless facilities and associated poles only if geographic area is no more than 2 miles in diameter. The approval of a consolidated application shall apply to all small wireless facility/poles. The denial of one or more small wireless facilities or associated poles that are a part of the consolidated application may not constitute a reason for denying the remaining small wireless facilities and associated poles. Consolidated apps must be ruled on in 90 days.
- f. An authority may not require application, approval, or fees for the following: 1. Routine Maintenance, 2. Replacement of an existing wireless facility with a wireless facility same size or smaller, and 3. for approved micro wireless facilities suspended on cables strung between existing poles.
- g. The deployment of a micro wireless facility that requires installation of a ground-mounted facilities shall be subject to any applicable authority permitting process.
- h. A work permit may be required for work that requires excavation, closure of sidewalks or vehicular lanes, or that hinders usual travel and safety, Permits issued on non-discriminatory basis.
- i. In the event of any action under subsection (f) the roads, bridges, and right-of-way shall be restored to the condition prior to the action taken.
- j. Authority may require facility to be fully operational within 360 days after last permit is issued, however, may agree to extend. If not operational within 360 days, authority may after 20 days prior to written notice to the wireless provider cancel approval or cause removal of small wireless facility at expense of wireless provider.

SECTION 3: APPLICATION PROCESS SB / ACT#2021-5 TEXT

- a. Subject to the limitations established in this Act, small wireless facilities and associated poles are not subject to zoning review or approval if they are located in the right-of-way under the control of an authority and otherwise comply with this Act and a then-existing final order of the Federal Communications Commission.
- b. Within 10 days of receiving an application, an authority shall determine and notify the applicant in writing whether the application is complete. If the authority determines the application is incomplete, the authority shall specifically identify the missing information and specify the requirement creating the obligation to submit the missing documents or information in the written notice. If the written notice of incompleteness is provided within 10 days of receiving the application, the processing deadlines in subsection (c) shall restart at zero on the date the applicant submits all the documents and information identified by the authority to render the application complete.
- c. Applications shall be processed on a nondiscriminatory basis. Applications not requiring a written notice of incompleteness shall be approved or denied within the following: 60 days of receipt of an application involving collocation of a small wireless facility using an existing structure; and 90 days of receipt of an application involving deployment of a small wireless facility using a new or replacement pole. For those applications requiring a resubmittal following the delivery of a written notice of incompleteness, the time limitations for approval or denial established in this subsection shall begin on the first date after receipt of all the documents and information identified by the authority. The processing deadline may be tolled by agreement of the applicant and the authority. If an authority fails to Act on an application within the review period provided for in this subsection, the applicant may provide the authority, by certified mail, a formal notice stating that unless the authority approves or denies the application within 20 days from receipt of the notice, the application and any associated permits will be deemed granted by operation of law on the twenty-first day from receipt of the notice.
- d. An authority shall approve an application if it complies with the authority's requirements for deploying small wireless facilities and associated poles in the right-of-way that are written, generally applicable, and adopted in advance.
- e. An applicant seeking to collocate, mount, or install small wireless facilities or to install, modify, or replace an associated pole within the jurisdiction of a single authority may file a consolidated application for small wireless facilities and associated poles, provided that the consolidated application shall be for a geographic area no more than two miles in diameter. The approval of the consolidated application shall apply to the collocation, mounting, or installation of the multiple small wireless facilities or associated poles. The denial of one or more single small wireless facilities or associated poles that are part of a consolidated application may not constitute a reason for denying the remaining small wireless facilities or associated poles included in the consolidated application. A consolidated application that includes a request to install, modify, or replace a pole shall be processed in accordance with the procedures and shall be subject to the 90-day review period established in this Act.
- f. An authority may not require an application or any other approval or charge fees or rates for any of the following that are in compliance with any applicable codes
 1. Routine maintenance conducted on small wireless facilities by the holder of an approved application for the small wireless facilities, provided the right-of-way is restored to the pre-maintenance condition.
 2. The replacement of small wireless facilities that are operated by the holder of an approved application for the small wireless facilities, are substantially similar or the same size or smaller, and still qualify as a small wireless facility.
 3. The deployment, installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing poles by an entity with a franchise agreement or other valid authorization which allows the entity to deploy communications facilities in the rights-of-way.
- g. Notwithstanding subsection (f), the deployment of a micro wireless facility that requires the installation, placement, or replacement of any ground-mounted facilities in the right-of-way shall be subject to any applicable authority permitting processes.
- h. Notwithstanding subsection (f), an authority may require a permit for work that requires excavation or the closure of sidewalks or vehicular lanes or that otherwise hinders the usual travel or public safety on the right-of-way or adjacent roads and bridges or obstructs the legal use of the right-of-way by utilities. The permit shall be issued to the applicant on a non-discriminatory basis upon terms and conditions applied to any other person's activities in the right-of-way that require excavation or the closure of sidewalks or vehicular lanes.
- i. In the event of any action under subsection (f), the roads, bridges, and rights-of-way, to the extent practicable in the reasonable judgment of the authority, shall be restored to the condition prior to the action conducted by the entity.
- j.
 1. As part of the application process, an authority may require a small wireless facility to be fully operational within 360 days after the date the last or final permit is issued, subject to the availability of wireline backhaul, electric power, or other matters beyond the control of the applicant. The authority and the applicant may agree to extend the period.
 2. If a small wireless facility is not operational in the time established under subdivision (1), the authority, after providing 20-day prior written notice and reasonable opportunity to cure, may do either or both of the following:
 - a. Cancel the authority's approval of the small wireless facility or any associated new pole.
 - b. Cause the removal of the small wireless facility or any associated new pole by the wireless provider at the wireless provider's sole expense and in a time the authority specifies after providing prior written notice to the wireless provider.

**SECTION 4: MOUNTING OF WIRELESS FACILITIES ON EXISTING
POLES OR REPLACEMENT POLES; EXCEPT POLES OWNED BY
ELECTRIC PROVIDER OR ANOTHER AUTHORITY.
SUMMARY**

- a. Subject to Sections 2, 3, and 5, an authority shall allow the collocation of small wireless facilities on existing poles, other than any poles owned by an electric provider, owned or controlled by an authority and the mounting or installation of small wireless facilities on replacement poles, other than any poles owned by an electric provider, owned or controlled by an authority on nondiscriminatory terms and conditions that comply with this Act.
- b. For structures owned or controlled by an authority, an authority may provide a wireless provider the option of either having the wireless provider perform any necessary make-ready work through the use of qualified contractors or having the authority perform any necessary make-ready work at the sole cost of the wireless provider. If the authority performs the make-ready work, the authority shall provide a good faith estimate of the make-ready work, including any pole replacement costs. Make-ready work shall be completed within 60 days after a written acceptance of the good faith estimate by the applicant.
- c. On completion of the make-ready work performed by an authority at the request of a wireless provider, the wireless provider, within 60 days of invoicing, shall reimburse the authority for the authority's actual and documented cost of the make-ready work, including labor and materials. The cost invoiced to the wireless provider may not exceed the good faith estimate by more than 10 percent.

**SECTION 4: MOUNTING OF WIRELESS FACILITIES ON EXISTING
POLES OR REPLACEMENT POLES. POLES OWNED BY ELECTRIC
PROVIDER OR ANOTHER AUTHORITY.
SB / ACT#2021-5 TEXT**

- a. Subject to sections 2, 3, and 5, an authority shall allow small wireless facilities on existing poles, except poles owned by an electric provider, or another authority and mounting or installing on replacement poles, except poles owned by an electric provider or another authority.
- b. For structures owned by an authority, an authority may provide a wireless provider the option of either having the wireless provider perform any "make-ready work" through qualified contractors or have the authority do the same at the expense of the wireless provider. Authority shall provide a good faith estimate of the "make ready work" including any pole replacement cost.
- c. Upon completion of make-ready work performed by an authority at request of wireless provider, within 60 days of invoicing the wireless provider must pay actual and documented cost. Invoice may not be greater than 10 percent of the good faith estimate.

SECTION 5: APPLICATION FEES FOR PERMITS FOR SMALL WIRELESS FACILITIES SUMMARY

- a. Application fees for permits shall be nondiscriminatory and may not exceed
 1. \$500.00 non-recurring fee for one application that may include up to 5 facilities and an additional \$100 per facility after 5 in a consolidated application.
 2. \$250 non-recurring fee for modification/replacement of existing pole together with mounting/installation of an associated small wireless facility.
 3. \$1,000 non-recurring fee for installation of new pole with the mounting/installation of an associated small wireless facility.
- b. If authority elects to charge for access to right-of-ways or for the collocation on poles owned or controlled by authority in the rights-of-ways for small wireless facilities, rates shall be nondiscriminatory and may not exceed \$100 per small wireless facility per year for access and use of the rights-of-ways and \$170 per year for small wireless facilities collocated, mounted, or installed on an adjacent to poles owned or controlled by authority.

SECTION 5: APPLICATION FEES FOR PERMITS FOR SMALL WIRELESS FACILITIES SB / ACT#2021-5 TEXT

- a. Application fees for permits for small wireless facilities shall be nondiscriminatory and may not exceed the following:
 1. A five hundred dollar (\$500) non-recurring fee for a single up-front application for collocation that includes up to five small wireless facilities, with an additional one hundred dollars (\$100) for each small wireless facility beyond five in a consolidated application.
 2. A two hundred fifty dollar (\$250) non-recurring fee for the modification or replacement of an existing pole together with the mounting or installation of an associated small wireless facility in the right-of-way.
 3. A one thousand dollar (\$1,000) non-recurring fee for the installation of a new pole together with the mounting or installation of an associated small wireless facility in the right-of-way.
- b. If an authority elects to charge for access to the right-of-way or collocation on poles owned or controlled by the authority in the right-of-way for small wireless facilities, the rates shall be nondiscriminatory and may not exceed one hundred dollars (\$100) per small wireless facility per year for access to and use of the right-of-way and one hundred seventy dollars (\$170) per year per small wireless facility collocated, mounted, or installed on or adjacent to poles owned or controlled by an authority.

**SECTION 6: PROVISIONS RELATING TO
POLES OR STRUCTURES OWNED BY AN
ELECTRIC PROVIDER
SUMMARY**

- a. Act not applicable to the poles or structures of electric provider. Act does not apply to equipment, easements or business activities of utility structures, any board or public corporation for operation of electric distribution systems, electric cooperatives, electric membership corporations, or any subsidiaries/parents of any of the entities if they are not acting as a wireless provider.
- b. This Act does not affect any pole attachment agreements entered into between a wireless provider and electric provider.
- c. With regards to small wireless facilities collocated, installed, or mounted pursuant to a pole attachment agreement with an electric provider, an authority may only restrict the wireless providers access in right-of-way. In such situation, the authority shall comply with the application process (section 3) and any fees/rates paid to the authority by the wireless provider (section 5)

**SECTION 6: PROVISIONS RELATING TO
POLES OR STRUCTURES OWNED BY AN
ELECTRIC PROVIDER
SB / ACT#2021-5 TEXT**

- a. This Act does not apply to any poles or structures owned by an electric provider, whether used for lighting, distribution, transmission, or otherwise. This Act also does not apply to the equipment, easements, or business activities of any of the following:
 - 1. A utility, as defined under Section 37-4-1, Code of Alabama 1975.
 - 2. Any board or public corporation incorporated or organized for the acquisition or operation of an electric distribution system under Chapter 50, Title 11, Code of Alabama 1975, including, but not limited to, Sections 11-50-490 through 11-50-506, Code of Alabama 1975, and any city or town that shall have established and is operating a system for the distribution of electric power and energy pursuant to Article 1 of Chapter 50, Title 11, Code of Alabama 1975.
 - 3. An electric cooperative incorporated or organized under Chapter 6 of Title 37, Code of Alabama 1975.
 - 4. An electric membership corporation incorporated or organized under Chapter 7 of Title 37, Code of Alabama 1975.
 - 5. The parents, affiliates, or subsidiaries of any of the entities described in this section, provided they are not acting as a wireless provider.
- b. Nothing in this Act shall affect or alter, or be construed to affect or alter, the terms of any pole attachment agreement entered into between or among a wireless provider and an electric provider.
- c. When a wireless provider collocates, installs, or mounts a small wireless facility pursuant to a pole attachment agreement with an electric provider, an authority may only restrict the wireless provider's access to the right-of-way as described in Section 2. In such a situation, the authority shall comply with the application process set forth in Section 3, and any fees and rates paid to the authority by the wireless provider are subject to the limits set forth in Section 5.

SECTION 7: LIABILITY, INDEMNIFICATION, AND HOLD HARMLESS SUMMARY

- a. Authority exercising its authority established by this Act is not subject to suit or otherwise responsible for the alleged negligence, wantonness, willfulness, recklessness, or other claims for alleged wrongful acts of wireless providers, or their officers, agents, contractors, subcontractors, or employees relative to the design, location, placement, construction, maintenance, and operation of small wireless facilities in an authority's right-of-way or on an authority's infrastructure.
- b. Wireless providers shall indemnify authority and elected and appointed officials, employees or their insurers and hold them harmless from all claims asserted by third parties, including attorney's fees. However, a wireless provider is not responsible for the negligence/willful misconduct of an authority, its employees, or agents.

SECTION 7: LIABILITY, INDEMNIFICATION, AND HOLD HARMLESS SB / ACT#2021-5 TEXT

- a. An authority exercising its authority established by this Act may not be subject to suit or otherwise be responsible for the alleged negligence, wantonness, willfulness, recklessness, or any other claims for alleged wrongful acts or omissions of wireless providers or their officers, agents, contractors, subcontractors, employees, or other representatives relative to the design, location, placement, construction, maintenance, and operation of small wireless facilities in an authority's right-of-way or on an authority's infrastructure.
- b. Wireless providers shall indemnify authorities and their elected and appointed officials, employees, and authorized agents, or their insurers, and hold them harmless from and against any and all claims, demands, actions, suits, or proceedings in equity or law asserted by third parties for damages, losses, liabilities, or costs of any kind, including, without limitation, reasonable attorney's fees, as and when incurred that arise from a material breach by a wireless provider or any of its officers, employees, volunteers, or authorized agents of any obligations set forth in this Act; or for any claims for the alleged negligence, wantonness, willfulness, recklessness, or claims of any other alleged wrongful acts or omissions of wireless providers or their officers, agents, contractors, sub-contractors, employees, or other representatives relative to the design, location, placement, construction, maintenance, and operation of small wireless facilities in an authority's rights-of-way or on an authority's infrastructure. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses due to or caused by the sole negligence or willful misconduct of an authority or its employees or agents.

SECTION 8: INSURANCE SUMMARY

- a. Authority may require a wireless provider to carry, at the wireless providers sole cost and expense third party insurance as follows:
 - a. Property insurance for replacement cost of all small wireless facilities,
 - b. Workers compensation insurance as required by law,
 - c. Commercial general liability of at least \$2,000,000.00 per occurrence (for wireless providers activities in, on, or around the authority's right-of-way, to include coverage for bodily injury and property damages), and
 - d. Environmental insurance.
 - e. Also an authority may require a wireless provider to include authority and its personnel as additional insureds on the commercial general liability policy and to provide authority with certification and documentation of inclusion in general liable policy.
- b. Alternatively, authority may allow the wireless provider to provide a certificate of self-insurance.

SECTION 8: INSURANCE SB / ACT#2021-5 TEXT

- a. Except as authorized under subsection (b), during the period in which the small wireless facilities of a wireless provider are located on or attached to the authority's assets, including its poles, or rights-of-way, the authority may require a wireless provider to do both of the following:
 1. Carry, at the wireless provider's sole cost and expense, the following types of third-party insurance:
 - a. Property insurance for the replacement cost of all small wireless facilities.
 - b. Workers' compensation insurance, as required by law.
 - c. Commercial general liability insurance of at least two million dollars (\$2,000,000) per occurrence, with respect to the wireless providers activities in, on, or around the authority improvements or rights-of-way, including coverage for bodily injury and property damage.
 - d. Environmental insurance.
 2. Include the authority and its officers, officials, agents, contractors, and employees as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the authority in a commercial general liability policy as reasonably required by the authority.
- b. In lieu of the requirements of subdivisions (1) and (2) of subsection (a), during the period in which the small wireless facilities of a wireless provider are located on or attached to the authority's assets, including its poles, or rights-of-way, the authority may allow the wireless provider to provide a certificate of self-insurance, acceptable to the authority, that demonstrates that the wireless provider has adequate resources to self-insure in the amounts set forth in subdivision (a)(1).

SECTION 9: REMOVAL/RELOCATION OF SMALL WIRELESS FACILITY OR POLE FOR VARIOUS REASONS SUMMARY

- a. Authority may require a wireless provider to move a small wireless facility or pole for the following reasons and as long as all other occupiers of the same right-of-way are required to do the same: 1) To perform construction, repair, maintenance, or improvements in rights-of-way; 2) when small wireless facility or pole interferes with an authority pole, traffic signal, or other equipment in rights-of-way; and 3) To comply with traffic and public safety codes.
- b. Within 90 days of written notice, wireless provider, at its own expense shall temporarily or permanently move the position of the small wireless facility or pole in the right-of-way.
- c. When an authority orders a wireless provider to remove or relocate the position of the small wireless facility or pole, the authority shall use its best efforts to provide reasonably equivalent alternative location.
- d. If wireless provider has not complied with an order to move within 90 days of the written order by the authority, the authority without further notice and at the sole expense of the wireless facility can move the small wireless facility and pole.
- e. Authority may remove small wireless facility or pole if authority determines removal is necessary to address imminent risk to public safety. If circumstances permit, the authority shall give wireless provider notice and an opportunity to remove or remedy situation. An authority that removes a facility or pole must promptly notify wireless provider of removal.

SECTION 9: REMOVAL/RELOCATION OF SMALL WIRELESS FACILITY OR POLE FOR VARIOUS REASONS SB / ACT#2021-5 TEXT

- a. An authority may order a wireless provider to remove, relocate, change, or otherwise alter the wireless provider's small wireless facility or pole for any of the following reasons, so long as all other occupiers of the same right-of-way remove, relocate, change, or otherwise alter their facilities under the same conditions as the wireless provider:
 1. To perform construction, repair, maintenance, or installation of an authority improvement in or upon the right-of-way or the operations of the authority in or upon the right-of-way.
 2. When the small wireless facility or pole is interfering with or adversely affecting the proper operation of an authority pole, traffic signal, or other equipment in the right-of-way.
 3. To comply with traffic and public safety codes.
- b. Within 90 days of the issuance of a written order from an authority, a wireless provider, at its own expense, shall temporarily or permanently protect, support, disconnect, remove, relocate, change, or otherwise alter the position of a small wireless facility or pole within the right-of-way.
- c. When an authority orders a wireless provider to remove, relocate, change, or alter the position of a small wireless facility or pole within the right-of-way, the authority shall use its best efforts to give the wireless provider a reasonably equivalent alternative location.
- d. If a wireless provider has not complied with an order under subsection (a) within 90 days of the issuance of a written order, the authority, without further notice to the wireless provider and at sole cost and expense to the wireless provider, may relocate any small wireless facility or pole as ordered by the authority.
- e. Notwithstanding any other provision of this section, an authority may remove a small wireless facility or pole if the authority determines that the removal is necessary to address an imminent risk to public safety. If circumstances permit, the authority shall provide notice to the wireless provider and an opportunity for the wireless provider to move its own small wireless facility or pole to address the risk. An authority that removes a facility or pole under this subsection shall promptly notify the wireless provider of the removal.

**SECTION 10: COMMUNICATIONS SERVICES PROVIDERS
MUST COMPLY WITH ALL LAWS AND AUTHORITY
CANNOT IMPOSE OTHER FEES/REGULATIONS
SUMMARY**

- a. Nothing in this Act shall allow any entity to provide communications services without compliance with all laws applicable to communications service providers. Nor shall this Act authorize the collocation, installation, or maintenance of any other types of communication facility/device in the rights-of-ways other than a small wireless facility or associated pole.
- b. Other than under the provisions of the Constitution, state law, local laws adopted by the Legislature or federal law, an authority may not adopt or enforce regulations or requirements on the placement, operation, or maintenance of any communications facilities authority to be in the right-of-way or impose or collect any additional tax, fees, or charge for any service existing on July 1, 2021.

**SECTION 10: COMMUNICATIONS SERVICES PROVIDERS
MUST COMPLY WITH ALL LAWS AND AUTHORITY
CANNOT IMPOSE OTHER FEES/REGULATIONS
SB / ACT#2021-5 TEXT**

- a. Nothing in this Act shall be interpreted to allow any entity to provide communications services without compliance with all laws applicable to communications service providers. Nor shall this Act be interpreted to authorize the collocation, installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, in the rights-of-way, other than a small wireless facility or associated pole.
- a. Except as it relates to small wireless facilities subject to the permit and fee requirements established pursuant to this Act, and except as it relates to any activities of an electric provider, and except as it relates to regulations or requirements on communications service specifically established by the constitution or by state law, local law enacted by the Legislature, or federal law, an authority may not otherwise adopt or enforce regulations or requirements on the placement, operation, or maintenance of communications facilities by a communications service provider authorized to be in the rights-of-way; or otherwise impose or collect any additional or separate tax, fee, or charge for any service existing on July 1, 2021, or for the provision of additional communications services provided by a communications service provider that is authorized to be in the rights-of-way.

**SECTION 11: ACT NOT APPLICABLE TO AGREEMENTS BETWEEN
AUTHORITY AND WIRELESS PROVIDER OR IF AUTHORITY HAS
ADOPTED ITS OWN POLICIES RELATING TO PERMITTING OF
SMALL WIRELESS FACILITIES AND POLES BEFORE MAY 1, 2021
SUMMARY**

- This Act does not apply to agreements between an authority and a wireless provider or when the authority has adopted an ordinance or other resolutions relating to the permitting of small wireless facilities and poles in the right-of-ways of an authority before May 1, 2021.
- To remain exempt from the provisions of this Act, an authority shall modify the agreement, ordinance, or resolution to be in compliance with applicable federal laws, orders, or regulations within 90 days from a final non-appealable federal order, rule, or regulation relating to small wireless facilities.

**SECTION 11: ACT NOT APPLICABLE TO AGREEMENTS BETWEEN
AUTHORITY AND WIRELESS PROVIDER OR IF AUTHORITY HAS
ADOPTED ITS OWN POLICIES RELATING TO PERMITTING OF
SMALL WIRELESS FACILITIES AND POLES BEFORE MAY 1, 2021
SB / ACT#2021-5 TEXT**

This Act does not apply to an authority that has entered into an agreement with a wireless provider, or that has adopted an ordinance or other resolution, relating to the permitting of small wireless facilities and poles in the rights-of-way of the authority before May 1, 2021. In order to remain exempt from the provisions of this Act, an authority shall modify the local agreement, ordinance, or resolution to be in compliance with applicable federal laws, orders, or regulations within 90 days from a final non-appealable federal order, rule, or regulation relating to small wireless facilities.

SECTION 12: ALABAMA DEPARTMENT OF TRANSPORTATION CAN DENY APPLICATION OF WIRELESS PROVIDER IF WIRELESS PROVIDER'S STRUCTURES WITHIN THE DEPARTMENTS RIGHT-OF-WAY WOULD IMPEDE OPERATION OR SAFETY OF TRAVEL. NO SMALL WIRELESS FACILITIES ON INTERSTATE RIGHT-OF-WAY SUMMARY

- a. Where provision of this Act does not comply with Federal Highway Admin ("FHA"), the Alabama Dept. of Transportation shall follow the FHA requirements.
- b. Alabama Department of Transportation may deny application for new or pre-existing structures within the Departments right-of-ways that would impede the operation or safety of a transportation facility. Small wireless facilities shall not be permitted on any interstate right-of-way.

SECTION 12: ALABAMA DEPARTMENT OF TRANSPORTATION CAN DENY APPLICATION OF WIRELESS PROVIDER IF WIRELESS PROVIDER'S STRUCTURES WITHIN THE DEPARTMENTS RIGHT-OF-WAY WOULD IMPEDE OPERATION OR SAFETY OF TRAVEL. NO SMALL WIRELESS FACILITIES ON INTERSTATE RIGHT-OF-WAY SB / ACT#2021-5 TEXT

- a. Where the provisions of this Act are divergent with any regulations, rulings, or guidance provided by the Federal Highway Administration, the Alabama Department of Transportation shall follow the Federal Highway Administration requirements.
- b. Notwithstanding any provision of this Act to the contrary, the Alabama Department of Transportation may deny any application for placement, modification, or maintenance of wireless facilities, on new or pre-existing structures, within the department's right-of-way where the department determines that the placement or maintenance activity would impede the operation or safety of a transportation facility. Small wireless facilities shall not be permitted on any interstate right-of-way.

SECTION 13: LAW
SUMMARY

- Act is effective when it is passed and approved by Governor.

SECTION 13: LAW
SB / ACT#2021-5 TEXT

- This Act shall be effective immediately following its passage and approval by the Governor, or its otherwise becoming law.