

TOWNSEND

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MEMO

To: City of Cupertino
Legislative Review Committee

From: Townsend Public Affairs, Inc.

Date: May 14, 2021

Subject: Consider adopting a position on Senate Bill 556 (Dodd) Street light poles, traffic signal poles: small wireless facilities attachments

Bill Information

The official text of SB 556 can be found [here](#)¹.

Summary

SB 556 enacts the California Connectivity Act, which requires a local government or municipal utility to make streetlight and traffic signal poles available for the placement of small wireless facilities, defined to mean a small cell pursuant to federal law, under fair, reasonable, and nondiscriminatory fees. Access to street light poles or traffic signal poles may also be subject to other reasonable terms and conditions, which may include reasonable aesthetic and safety standards, consistent with the FCC's small cell order. SB 556 also limits fees that local governments and municipal utilities can charge.

Under the provisions of SB 556, a municipal utility or local government must respond to a request for placement of a small wireless facility on a street light pole or traffic signal pole, or multiple poles, within 45 days of the date of receipt of the request, or within 60 days if the request is to attach to over 300 poles. If it denies the request, the municipal utility or local government must provide the reason for the denial and the remedy to gain access to the street light poles or traffic signal poles. SB 556 also prohibits a local government or municipal utility from unreasonably denying a streetlight or traffic signal pole lease or license for the purpose of placing small wireless facilities. A local government or municipal utility can deny an application for a pole attachment due to:

- Insufficient capacity or safety, reliability, engineering concerns, and impacts to core traffic or street light service, unless the communication service provider agrees to replace the streetlight or traffic signal pole; or
- An impact from the attachment on an approved project for future use by the municipal utility or the local government of its street light poles or traffic signal poles for delivery of the core service related to the pole.

If a request to attach is accepted, the following timelines must be met:

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=20210220SB556

- Within 14 days after acceptance of the request, the municipal utility or local government must provide a cost estimate, based on actual cost, for any necessary make-ready work required to accommodate the small wireless facility.
- Within 14 days of receiving the estimate, the requesting party must accept or reject the make-ready cost estimate.
- Within 60 days of acceptance of the cost estimate, the municipal utility or local government must notify any existing third-party attachers that make-ready work for a new attacher needs to be performed, although the party requesting attachment is responsible for coordinating with the existing attachers for make-ready work to be completed.
- Within 60 days of the notice, or within 105 days in the case of a request to attach to over 300 poles, all parties must complete all necessary make-ready work. The municipal utility or local government may complete make-ready work without the consent of the existing attachers, if the existing attachers fail to move their attachments by the end of these time periods.
- These timelines may be extended upon mutual agreement between the communications service provider and the local government or municipal utility that owns the poles.

SB 556 also limits the fees that local governments and municipal utilities can charge for small wireless facility attachments to streetlight and traffic signal poles. Specifically, the bill allows local governments and municipal utilities to establish fees for use of a streetlight or traffic signal pole that is a reasonable approximation of the direct and actual costs, consistent with the FCC small cell order. Local governments and municipal utilities can charge the following fees:

- An annual attachment rate per pole that is based on the percentage of usable space taken up by the small wireless facility and the total annual cost of ownership of the streetlight or traffic signal pole, similar to the methodology used for calculating the cost of using a utility pole. If the local government or municipal utility charges a rate that exceeds its actual costs, it must use those fees to reduce the rate.
- A one-time fee to reimburse the local government or municipal utility for the costs of rearranging existing attachments on the pole.
- A one-time fee to process a request for attachment, if the fee does not exceed the actual cost of processing the request.

SB 556 establishes a rebuttable presumption that a local government's or municipal utility's annual attachment fees are reasonable if those fees are equal to or less than the annual \$270 fee for each small wireless attachment included in the FCC's 2018 small cell order. The bill also requires a local government or municipal utility to offer this \$270 annual fee until it adopts an annual small wireless facility attachment fee that complies with the bill's terms.

SB 556 specifies that any agreement on rates, terms, and conditions for small wireless facility attachments to streetlight and traffic signal poles that occurred prior to the January 14, 2019, enactment of the FCC's 2018 Small Cell Order are only valid for attachments installed by January 1, 2022, and they are only valid until the contract expires. The bill requires a municipal utility to use its existing utility pole attachment fee authority to set streetlight and traffic signal fees specified by this bill unless it adopts the \$270 annual fee that is presumed reasonable pursuant to the FCC's 2018 Small Cell Order. The bill also allows different rates, terms, and conditions if the communication service provider and the local government or municipal utility agree.

Status

SB 556 was approved by the Senate Governance and Finance Committee (4-1) on April 22nd. The measure is currently in the Senate Appropriations Committee.

Support

According to the author, "SB 556 brings California into conformance with existing federal and state laws seeking to accelerate the deployment of wireless broadband network infrastructure throughout California. For too long, wireless broadband deployments have been delayed by confusing regulations, entrenched in excessive bureaucracy. These processes have had a severe impact on bringing high-speed internet to many communities across California. As employers and schools across our state have shifted to virtual participation, highlighting disparities of access faced by low-income families and people of color, it is now time to take immediate steps to close the digital divide and ensure a better access to internet for all."

Supporters of SB 556 include: Bay Area Council; Contra Costa County Office of Education; Crown Castle and Its Affiliates; Cellular Telecommunications and Internet Association; East Bay Leadership Council; Lake County Office of Education; Latinos in Information Sciences and Technology Association; LGBTQ Center Long Beach; LGBT Community Center of The Desert; LGBT Technology Partnership & Institute; Long Beach Area Chamber of Commerce; Los Angeles County Business Federation; Napa County Office of Education; Orange County Business Council; Plumas County Office of Education; Sacramento Hispanic Chamber of Commerce; Sacramento LGBT Community Center; Silicon Valley Leadership Group; Sonoma County Office of Education; T-Mobile USA, Inc.; and Verizon.

Opposition

Opponents of SB 556 state that the bill directly conflicts with the Federal Communications Commission's (FCC) adopted regulations on wireless services deployment, which cities and counties across the nation are actively implementing. This measure requires local governments to make space available to telecommunications providers without recognizing local authority to manage the public right-of-way preserved in federal law. FCC regulations explicitly enable local governments to ensure that such installations meet appearance and design standards, maintain traffic safety, protect historical resources' integrity, and safeguard citizens' quality of life. To protect the public's investment, the control of the public rights-of-way must remain local.

Opponents of SB 556 include: Bay Area Educators for Safe Tech; Cities of Agoura Hills, Arcata, Belmont, Bellflower, Brea, Calabasas, Campbell, Carlsbad, Chino, Chino Hills, Clovis, Colton, Costa Mesa, Del Mar, Downey, El Centro, Fortuna, Foster City, Fountain Valley, Hesperia, La Palma, Lathrop, Los Alamitos, Los Altos, Madera, Maywood, Mission Viejo, Monterey, Newport Beach, Norwalk, Novato, Oakdale, Oceanside, Pacifica, Petaluma, Placentia, Rancho Cucamonga, Redding, Ripon, Riverbank, San Buenaventura, San Fernando, Signal Hill, Solana Beach, South Lake Tahoe, Stockton, Sunnyvale, Tehachapi, Thousand Oaks, Torrance, Tracy, Tulare, Vacaville, Vista, West Hollywood, and Whittier; East Bay Neighborhoods for Responsible Technology; Ecological Options Network; Monterey Vista Neighborhood Association; Napa County Progressive Alliance; Napa Neighborhood Association for Safe Technology; Save North Petaluma River and Wetlands; South Bay Cities Council of Governments;

Recommended Action

Adopt an oppose position on SB 556 and authorize the Mayor to send letters to the state legislature.