

Commission on Local Government

Estimate of Local Fiscal Impact

2016 General Assembly Session

Bill: HB 1347

Patron: Heretick

Date: 1/29/2016

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

Bill Summary:

Wireless communications infrastructure. Prohibits a locality from charging an application fee, consulting fee, or other fee associated with the submission, review, processing and approval of an application to construct a new wireless support structure, for the substantial modification of a wireless support structure, or for collocation of a wireless facility or replacement of a wireless facility on an existing structure or utility pole that is not required for similar types of commercial development within the locality's jurisdiction. The measure permits a locality to charge fees for the costs directly incurred by it relating to the granting or processing of an application. Such fees are capped at the lesser of the amount charged by the locality for a building permit for any other type of commercial development or land use development, or \$500 for a collocation application, small cell facility or distributed antenna system or \$1,000 for a new wireless support structure or for a substantial modification of a wireless support structure. Localities are prohibited from (i) requiring an applicant to submit information about, or evaluate an applicant's business decisions with respect to its designed service, customer demand for service, or quality of its service to or from a particular area or site, or information that concerns the specific need for the wireless support structure; (ii) evaluating an application based on the availability of other potential locations for the placement of wireless support structures or wireless facilities; (iii) dictating the type of wireless facilities, infrastructure or technology to be used by the applicant; and (iv) requiring the removal of existing wireless support structures or wireless facilities, as a condition for approval of an application. The measure grants to any domestic or foreign telecommunications provider or broadband provider to construct, maintain, and operate conduit, poles, cable, switches and related appurtenances and facilities along, across, upon and under any public highway or rights-of-way in the Commonwealth. Localities are barred from (a) imposing certain environmental testing, sampling, or monitoring requirements or (b) instituting any moratorium on the permitting, construction or issuance of approvals of new wireless support structures, substantial modifications of wireless support structures, or collocations.

Executive Summary:

As described in the provisions of HB 1347, localities would be prohibited from (1) charging any fees associated with the application, consultation, submission, review and processing for approval to construct, modify, collocate or replace a wireless facility, (2) acquiring information to evaluate an applicant's business decision, (3) evaluating an application based on the availability of other potential locations, (4) dictating the type of wireless facilities, infrastructure or technology to be used, (5) requiring the removal of existing wireless support structures or wireless facilities, as a condition for approval, and (6) imposing certain environmental testing, sampling or monitoring requirements or instituting any moratorium on the permitting. The bill would impose caps on the fees localities would be allowed to charge for the costs directly incurred for granting or processing of an application.

Localities have evaluated a negative fiscal impact of \$0.01 - \$120,000.00. The provision of the bill would impact all localities in some way. Localities noted this bill is unnecessary as Federal regulations restrict localities involvement in certain aspect of the development of telecommunication tower including Congressional action last year (FCR47, Chapter 1, §1.4001) to further restrict localities involvement regarding the modification of existing towers. Localities are also concerned about how the bill would prohibit them from (1) determining the necessity of a tower, and (2) having a voice in protecting their citizens from potential adverse impacts from the location, height and number of towers.

In addition, localities noted that the bill would restrict their ability to raise revenue especially if they needed to increase their application fees in the future.

Local Analysis:

Locality: Augusta County **Estimated Fiscal Impact:** \$9,800.00

This bill should be adamantly opposed. It is unnecessary. Federal Regulations (Telecommunications Act) currently restricts a locality's involvement in the development of telecommunication towers. Last year congress amended the law (FCR 47, Chapter 1, §1.4001) to further restrict what we can regulate as far as modifications to existing towers. This Bill as drafted would permit all telecommunications towers and co-locations as a "by right" use and prohibit all localities from having a voice in protecting our citizens from adverse impacts from the location, number of towers, height, the ability to require removal of old towers, and our ability to charge fees to cover the cost of having a consultant to help us review applications.

The County currently charges a fee to offset the cost of application review by a consultant. If we were unable to charge the applicant for the fee, then 100% of the cost would be paid by the taxpayers. The amount shown as the estimated fiscal impact fee is the budget amount for FY16.

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**Locality:** Chesapeake Public Schools **Estimated Fiscal Impact:** \$1.00

No impact on school division.

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Locality: City of Danville **Estimated Fiscal Impact:** \$1,000.00

It is extremely hard to estimate the revenue loss, but we have provided non-fiscal impacts for consideration.

15.2-2836 A. (i) (ii) and (iii) are all what Danville bases approving new towers on. This would gut that and the City would have no way to say if a new tower was even needed. This says they ask, we have to say yes or no, without being allowed to ask for any supporting documentation on the need for the facility. Danville has been really easy to work, but this would probably require us to really change the way we look at things since we'd have no way to determine the necessity of a tower.

(viii) says you can't require screening that are unreasonable. Unreasonable to who, the company or locality? This is unclear.

Under B, instead of each small cell network site being looked at, it becomes one big group so if there is a problem with one location in the network, but not all, the locality can't say no.

The definition for substantial modification allows up to a 10% increase in height without triggering it. So we allow for 150 feet for towers. They come in an add 14 feet, we can't say anything. The next owner comes in and does the same, and so on, and so on, and next thing you know you have a 300' tower and we had no say in it. This is worrisome, both for the locality and for private residents who may live near a current or future site.

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**Locality:** City of Falls Church **Estimated Fiscal Impact:** \$1.00

Because of our small size and the fact that our jurisdiction is mostly urban/suburban, this bill has no fiscal impact.

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Locality: City of Lynchburg

Estimated Fiscal Impact: \$75,000.00

The City has received \$25,000 for a new tower with the addition of \$5,000 per addition of provider to the tower.
The City also receives \$3,153 per month rent for the tower.
This would be capped at \$1,000 per year if I understand this bill correctly and the capacity to receive one-time payments per tower would be lost.

Locality: City of Norfolk

Estimated Fiscal Impact: \$0.01

Preliminary analysis. The cost of the bill as proposed is indeterminate at this time. The bill caps the fees a locality is allowed to charge to process an application to construct or modify a wireless structure. The City of Norfolk charges \$355 for a special exception application fee, which is below the fee caps stated in the bill. The ability for the city to require the regular special exception application fee would not be altered by this bill. However, the bill may restrict the city's ability to raise revenue from application fees in the future.

Locality: Henrico County

Estimated Fiscal Impact: \$3,750.00

A cap on the amount localities could charge for an application without a method for raising that in the future other than change state legislation could pose a challenge in the future. This bill also prohibits certain actions that our Planning Department regularly take in these cases such as requiring the removal of equipment after it is not being used and requiring landscaping so that the equipment areas will be screened from nearby property owners.

Locality: Rappahannock County

Estimated Fiscal Impact: \$1,000.00

Fees are generally in line with what we currently charge; minor tweaking of our current provisions would be required to comply with limits proposed on review matters

Locality: Spotsylvania County

Estimated Fiscal Impact: \$11,135.00

A cap of \$1,000 will cause an \$11,135 reduction in revenue per tower occurrence, and will in no way cover the direct costs of community meetings, application and technical reviews, staff report writing, responses to community questions, public hearings and public hearing notices. Just the advertisements for public hearings are \$700+.

Locality: Town of Front Royal

Estimated Fiscal Impact: \$120,000.00

Town stands to lose \$120,000 per year in lease payment for cell tower attachments to our water tanks

The Town will also incur costs to have third party review of applications for attachment which are currently reimbursed by applicant

- Removes ability to obtain co-location availability
- Removes ability to have old equipment removed as part of installing new towers
- Removes ability to require aesthetic screening to become blight on community
- Removes ability to limit height or installation of lighting
- Removes ability to require law enforcement equipment on private towers