

**Commission on Local Government**

**Estimate of Local Fiscal Impact**

2017 General Assembly Session

**Bill:** HB 2196

**Patron:** Kilgore

**Date:** 1/23/2017

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:**

Provides a uniform procedure for the way in which wireless communications infrastructure is approved by localities and approved and installed in public rights-of-way.

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**Executive Summary:**

HB 2196 provides a uniform procedure for localities to approve wireless communications infrastructure and installing them in public rights-of-way. Localities have evaluated a negative fiscal impact ranging from \$0.01 - \$250,000.00. Localities noted that the bill would have a negative fiscal impact because it allows multiple cell facilities on a single application for a flat fee and limits local authority to collect fees for such infrastructure locating on rights-of-way or public property. Limiting local fees for wireless infrastructure could restrict localities' ability to cover the costs with the application fees and other aspects of the review process. While some localities noted that the bill would not have any fiscal impact or the impacts were difficult to quantify, the bill could significantly impact property values and the safety of neighboring property owners.

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**Local Analysis:**

**Locality:** City of Danville

**Estimated Fiscal Impact:** \$175,000.00

The full fiscal impact is hard to determine, and the figure listed is a very rough estimate. It is worth noting that this bill allows for multiple small cell facilities on a single application with a flat fee. Since small cell facilities have a much more limited range than towers, this means one application could have an unlimited number of plans. The fee would in no way cover the costs of staff time spent looking at the plans. (Using lane miles and a coverage estimate per small cell, 1664 potential sites were estimated) This would be over \$65,000 in potential revenue loss based on reviews alone. Additionally, localities could not force wireless companies to pay ongoing fees for attachments to existing structures for the rights of way or public property the way other utilities do. (We currently receive over \$350,000 in revenue from cable companies for pole attachments - why would wireless companies not be treated the same?) This would warrant an additional revenue loss which is hard to estimate (\$110,000 est.) . While there may be a revenue for new wireless structures (ongoing fees), it would not cover the loss.

The larger impact of this bill is the limiting of local authority and the inability to properly regulate access to public property and rights of way.

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**Locality:** City of Harrisonburg

**Estimated Fiscal Impact:** \$0.01

There would be no direct financial cost to the City if this legislation is passed. If it is passed, it will impact the city from a zoning perspective and we'll have to amend our code appropriately.

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**Locality:** City of Lynchburg

**Estimated Fiscal Impact:** \$100,000.00

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. Provides a uniform procedure for the way in which wireless communications infrastructure is approved by localities and approved and installed in public rights-of-way.

Estimated Fiscal Impact\*: Undetermined, but expected to be significant (see below)

Summary Statement: The bill will usurp local governments' control over their rights of way, and will allow wireless providers to install their facilities pretty much wherever they want to without regard to local zoning ordinances or the potential problems that may be caused by putting their facilities in the public rights of way.

**Specific Concerns:**

**Section 2:**

- This requirement states that we can't require propagation maps which our current ordinance requires.

**Section 7:**

- Last year, Lynchburg concluded a 4-year zoning ordinance revision where the number one concern from residents was the condition of residential neighborhoods. This language is limiting as far as building materials of the facility or even the appearance of the tower. As a result of this feedback, the City has spent countless hours and resources attempting to improve aesthetics by minimizing visual blight of utilities, especially in historic areas of the City. This seems like a significant erosion of the local government's ability to maintain those standards. For example, if a 6 or 28 cubic foot (or larger if the FCC can authorize such) containers cannot have aesthetics and placement standards, the issues may range from obstructing access, appearance standards, etc. Think large, unscreened telecommunication poles, transformers and equipment cabinets located next to 100-year old structures or within gateways to historic streets. All this with no requirements to camouflage or blend them into the landscape.

**Section 10:**

- Our ordinance requires setbacks in residential districts and adjacent to residential districts to be 2x the height of the tower. The new legislation would probably cut that in half, depending on fall zones. This could significantly impact the property values and safety of neighboring property owners.

**Section 27:**

- No restrictions or requirements are to be imposed for use of ROW.
  - No fees can be imposed. May affect existing contracts with service providers wh
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**Locality:** City of Norfolk

**Estimated Fiscal Impact:** \$0.01

Local impact is currently unknown at this time; however, there will likely be a reduction in local revenue. This bill would limit localities ability to set local fees for wireless infrastructure. Additionally, this bill would restrict the local permitting process and any associated fees.

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**Locality:** City of Roanoke

**Estimated Fiscal Impact:** \$250,000.00

The city would be limited in the fees we can charge and that would prohibit us from implementing our new policy of charging a consultant fee to bring on a third party consultant to help us review larger wireless facilities (cell towers). That is an approximate \$1,000 to \$2,000 per case. But, we only see one of those every now and again. Essentially, this bill would cause so many problems in permitting wireless facilities that we would need to bring a wireless consultant on permanently at a cost of \$250,000 a year.

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**Locality:** City of Winchester

**Estimated Fiscal Impact:** \$10,000.00

There are numerous concerns from the land use perspective. The bill preempts local land use authority to appropriately review the siting, massing, height, impacts in the locality as well as the design and appropriateness in overlay districts such as historic and entrance corridors. The bill removes local authority to ensure that abandoned facilities are properly removed (through permit approval conditions and bonding). The ability of localities to ensure that collocations between carriers on wireless facilities is also negatively impacted; this could result in the unnecessary proliferation of wireless facilities. The bill also codifies time review requirements which is troubling; if the locality does not grant/deny an application within a specified period the application is automatically granted.

The fiscal impact is difficult to discern. The bill sets a universal cap on fees throughout the Commonwealth, so if our administrative and advertising costs go up in the future, we will not be able to adequately cover those costs with the application fee.

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**Locality:** Henrico County

**Estimated Fiscal Impact:** \$7,500.00

The fiscal impact is related to the fees currently charged for provisional-use permits.

However, this bill usurps a community's ability to control its own property and goes beyond federal statutes and regulations

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**Locality:** Mecklenburg County

**Estimated Fiscal Impact:** \$10,000.00

We estimate that by not being able to collocate our Emergency services on towers we will pay an estimated 10,000 annually.

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**Locality:** Town of Boones Mill

**Estimated Fiscal Impact:** \$1.00

No effect on Boones Mill. We don't see significant cell tower activity because of our topography, and our zoning is pretty permissive as is.

A consistent procedure across localities has merits for industry, of course. I'm sure many localities will resent the imposition, though some may welcome a settling of the matter.

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**Locality:** Town of Christiansburg

**Estimated Fiscal Impact:** \$20,000.00

The Town of Christiansburg has approximately \$100,000 per year in lease agreements with telecommunications providers but these are for fee simple Town-owned properties (no leases in the right-of-way). The Town estimates that approximately \$10,000 may be lost due to existing lease holders relocating to rights-of-way for free or reduced fees. The Town also estimates approximately \$10,000 in lost opportunity costs due to telecommunications providers located in right-of-way as opposed to leasing fee simple Town-owned property.

The Town believes that the "costs" of loss of authority over right-of-way as well as the loss of zoning authority, while perhaps not particularly monetary, would be great.

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