

Date: February 10, 2020
To: Senate Committee on Utilities
From: Jay Byers, Deputy City Manager, Pittsburg
Re: SB 380 – Written Opponent Testimony

Thank you, Chairman and Committee, for allowing me to submit testimony on SB 380. The City is currently opposed to this legislation because it is an impractical and inefficient imposition that complicates local government’s mandate to coordinate the public right-of-way. SB 380 demonstrates how some industry representatives attempt to assert an exigency and claim a federal definition and law (that have yet to be determined) at the cost of good management of critical public resources.

Access to the public right-of-way has always been a tremendous cost saving to businesses and industry, who would otherwise have to negotiate and acquire rights from a large number of private property owners. To facilitate growth and development, local jurisdictions have agreed to allow many industries to utilize the right-of-way and have coordinated the many interests in a neutral and efficient manner. As more parties have requested access to the right-of-way, the need to avoid destructive interaction within the often tight physical space has become even more important.

Technological progress has seen geometric growth in recent decades; however, this progress does not change the unique and fundamental role local government must have to organize and monitor the myriad equipment impinging on an increasingly scarce resource. No one industry, technology or company overrides all interests. It is important for local jurisdictions to be able to analyze use of the right-of-way to ensure that competing, conflicting and potentially dangerous activity is avoided.

The construction of “wireless services” is not simple nor is it without potential danger or disruption. The services all require electricity, involve mounting equipment of significant weight, and include significant use of increasingly crowded radio frequency bandwidth. The potential harm to the public is clear, and the potential for negative interaction with other radio signals exists. This negative interaction potential is enhanced by the language in 12-2022(o) that the service “includes communications services using licensed or unlicensed spectrum, including wi-fi.” This language appears to be a strong reach into new areas. Furthermore, nothing in this legislation provides for additional broadband access or speed for customers – that is a function of associated technology, not with unfettered access to the right-of-way.

While the management of the right-of-way has become more difficult, local jurisdictions have accepted the accountability that comes with the increasingly complicated responsibility. While any revenue that would be generated from regulation of this activity is not significant to municipalities or to the industries involved, it is still important that local jurisdictions are allowed to pursue their coordinating and safety responsibilities. Municipalities are ready, willing and able to continue to be accountable for managing this important resource, and this legislation would prohibit them from a significant element.

For these reasons, I ask that Committee not to pass SB 380 out of committee. Thank you for your consideration.