



February 12, 2020

Testimony in Opposition to Senate Bill 380 Senate Utilities Committee

Chairman Masterson and Members of the Senate Utilities Committee:

I appear today on behalf of a coalition of Northeast Johnson County cities, presently comprised of the cities of Merriam, Mission, Prairie Village, and Westwood Hills. I appreciate the opportunity to provide testimony in strong opposition to Senate Bill 380, which we believe presents countless concerns for cities, most notably cities' control of the right-of-way and their ability to collect franchise revenues. This legislation is not about "leveling the playing field" for the cable industry. It would give the industry unprecedented authority to use municipalities' rights-of-way—without submitting an application or fee—and leave cities with little to no recourse when these companies infringe in their rights-of-way. We urge you to oppose the bill for the following reasons.

First and foremost, the bill would prevent municipalities from requiring service providers to submit an application or fee for the placement of "micro wireless," or strand mount facilities, on utility poles. The bill expressly states that municipalities "shall not require a video service provider to obtain a separate franchise to provide video service," nor "require a video service provider to make an application or pay any fee, license, tax or rent for the installation, placement, maintenance, operation or replacement of a micro wireless facility." Essentially, the cable industry is asking for total control of the right-of-way—for free—while at the same time denying cities any oversight or financial compensation. The ability to regulate the public right-of-way is a top public policy priority for cities, but is also a matter of public safety, and this bill would dismantle cities' regulatory authority of the right-of-way. Cable providers should not be granted the broad authority to control when and where they install their facilities. Cities play an important role in this process to ensure fairness and public safety, and we believe the bill poses several potential threats to public safety, such as transportation hazards. Electric reliability and safety may also be threatened if wireless facilities are installed but then unmaintained or abandoned in the future.

Furthermore, we believe this legislation has far-reaching ramifications not only for the cable industry, but for anyone else who uses the public right-of-way. If cable providers are granted permission to use the right-of-way for free, what will stop others who use the right-of-way from seeking this same special treatment?

This bill is an outright attempt by the cable providers and their affiliates to freely install their facilities and pay nothing for the provision of wireless services. It is not simply a way to "level the playing field" between cable and wireless providers. Cities must retain the ability to charge a franchise fee and maintain control of the right-of-way, and it is for those reasons that our four cities—Merriam, Mission, Prairie Village, and Westwood Hills—urge you to oppose this bill.

Thank you for your consideration and I welcome any questions you may have on this matter.

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