

Wireless Siting Franchise Fees, Prohibitions; SB 68

SB 68 amends law relating to valid contract franchise ordinances and their application to wireless service providers and wireless infrastructure providers.

Franchises for Wireless Services and Infrastructure Providers

The bill prohibits a city from requiring a wireless services provider or wireless infrastructure provider to enter into a franchise, franchise agreement, franchise ordinance, contract franchise, or contract franchise ordinance for the provision of wireless services.

The bill also clarifies nothing in the bill is to be construed as prohibiting a city from requiring a telecommunications local exchange service provider to enter into a valid contract franchise ordinance as provided by KSA 2018 Supp. 12-2001.

Right-of-Way

The bill allows a city to govern wireless services providers' or wireless infrastructure providers' use of the public right-of-way by requiring a small cell facility deployment agreement or a master license agreement, or through permitting requirements, municipal ordinances or codes, or any combination of such mechanisms in a manner consistent with federal and state law.

Fees

The bill allows a city to assess a wireless services provider or a wireless infrastructure provider a fixed right-of-way access fee for each small cell facility a provider deploys that requires the use of the city's right-of-way. The fee cannot be based on such a provider's gross receipts derived from services provided within a city's corporate limits.

Exceptions

The bill specifies the above provisions apply only to a wireless infrastructure provider in its deployment of small cell facilities in a city's right-of-way, used for the provision of wireless services. The bill further clarifies nothing is construed to apply to such a provider's other operations and services as a utility or have any effect on any franchise related to other operations and services.

Definitions

The terms "authority," "public right-of-way," "small cell facility," "utility pole," "wireless infrastructure provider," "wireless services," and "wireless services provider" have the same definitions as provided in the Wireless Siting Act.

The bill also defines “small cell facility deployment agreement” as an agreement between a wireless services provider or wireless infrastructure provider and an authority for the deployment of small cell facilities on or adjacent to existing, modified, replacement, or new utility poles within the public right-of-way pursuant to state and federal law. A small cell facility deployment agreement is not considered a franchise, franchise agreement, franchise ordinance, contract franchise, or contract franchise ordinance.