

Fiscal Note

BILL # HB 2108

TITLE: telecommunications; public highways; use; fees

SPONSOR: Weninger

STATUS: As Introduced

PREPARED BY: Jeremy Gunderson

Description

HB 2108 prohibits cities, towns and counties from levying a linear foot fee on telecommunications corporations for any underground facility that is used for a small wireless facility.

Estimated Impact

The bill does not have a fiscal impact to the state. The bill could impact fees collected by local jurisdictions, but we cannot estimate the impact at this time because it depends on a legal interpretation of the current bill language which has not been resolved.

The Arizona League of Cities and Towns has not provided an estimated impact at the time of publication.

Analysis

Small wireless facilities are used in telecommunications infrastructure to transmit high frequency data over short distances. These are compared to other wireless facilities that can transmit lower frequency data over a wider range. Small wireless facilities are important to new high-speed cellular data networks, as the short distance transmission requires many more facilities than other wireless facilities. All wireless facilities are connected to telecommunication networks via fiber-optic cables that run underground in public rights-of-way from facility to facility. To use the public rights-of-way, telecommunications providers obtain a license from a city, town or county, which are negotiated between the local jurisdiction and the telecommunications corporation on a case by case basis. As such, the fees associated with the licensing agreements vary with each agreement.

Because all fees associated with small wireless facilities are levied by local jurisdictions, there is no fiscal impact to the state.

Local Government Impact

Currently, statute allows cities to charge up to \$100 annual application fees for use of up to 5 small wireless facilities in a public right-of-way and up to an additional \$50 per small wireless facility. Cities, towns and counties can also charge linear foot fees for underground fiber-optic cables used in interstate telecommunications or other non-telecommunications uses, such as a data storage facility.

The impact depends on a legal interpretation of the bill. Industry representatives who are proponents of the bill believe the bill only continues existing prohibitions on linear foot fees for small wireless facilities. The Arizona League of Cities and Towns believe the language will exempt all underground fiber-optic cable connected to a network using small wireless facilities, including fiber-optic cable that is used for interstate telecommunications or non-telecommunications purposes.

To date there have been no licensing agreements between local jurisdictions and telecommunications corporations that include linear foot fees specifically on small wireless facilities. If the bill is interpreted to only prohibit linear foot fees on

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small wireless facilities and the equipment adjacent to, or directly associated with an antenna, the bill would have no fiscal impact on local jurisdictions. Based on the bill language, however, Legislative Council believes a court would likely interpret the language broadly to incorporate all fiber-optic cable in a telecommunications company's network if the network is connected to a small wireless facility. Under this scenario, the bill would reduce revenues to local governments.

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