

HOUSE RESEARCH

Bill Summary

File Number: H.F. 739

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Version: The delete everything amendment (H0739DE7)

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Subject: Placement of small wireless facilities

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House File 739, as amended by the delete everything amendment (H0739DE7), creates a framework for the placement ("collocation") of small wireless facilities on support structures owned by local government units. It amends existing Minnesota Statutes, sections 237.162 and 237.163.

Sections 1 through 11 of the bill contain definitions of new terms and amend current definitions. The new terms defined include "small wireless facility," "wireless facility," "micro wireless facility," "wireless services," "collocate," "wireless support structure," and "wireline backhaul facility." The existing definition of "management costs or rights-of-way management costs" is amended to exclude unreasonable fees of a third-party contractor employed by a local unit of government to help manage its rights-of-way that charges a fee based on a telecommunications right-of-way user's revenues, number of customers, or similar measures.

Section 12 allows the placement of small wireless facilities and wireless support structures in a public right-of-way in accord with this section. It prohibits a local government unit from establishing a moratorium with respect to permits sought for small wireless facilities, and makes the placement of such facilities a permitted use in a public right-of-way, except in areas zoned for single-family residential use and in designated historic districts, where a conditional use or special permit may be required.

Section 13 sets forth general regulations for the issuance of small wireless facility permits. It allows for consolidated permit applications for the collocation of up to 15 small wireless facilities (or more, if the local unit of government agrees), provided they are for similar equipment, are to be placed on similar support structures, and are located within a two-mile radius. If a local unit of government receives applications from more than 30 small wireless facilities in a seven-day period, it may extend the 90-day review period an additional 30 days. Permits are not needed, and no fee may be charged, for maintenance or replacement of small wireless facilities. A local government unit may elect to develop a standard agreement setting forth the terms of collocation for small wireless facilities.

Section 14 prohibits a local government from requiring the placement of a small wireless facility on a specific support structure different from that proposed in the permit application. No support structure may extend higher than 50 feet from the ground, unless it is replacing an existing structure that is above that height, in which case it can be no higher than the existing support structure.

Section 15 governs the permit approval process for small wireless facilities. It allows permit approval to be conditioned on generally applicable and reasonable health, safety, and welfare regulations, and provides that a permit is issued automatically if a local government unit has not rendered a decision on the application within 90 days of receipt, unless the parties agree otherwise.

Section 16 amends the current statute listing conditions under which a right-of-way permit may be denied to include small wireless facilities. Denial of a small wireless facility permit must be made in writing and contain the reasons for the denial.

Section 17 specifies fees a local government unit may charge, with respect to permit applications, preparatory engineering and construction work, and to occupy space on a support structure owned by a local government unit. Fees for the latter include up to \$125 per year per small wireless facility, plus up to \$25 annually for maintenance, and a monthly fee for electricity costs.

Section 18 prohibits a local government unit from regulating the placement or operation of any communications facilities authorized to operate in a right-of-way or the collection of fees from such facilities, other than those required by state or federal law.

Section 19 affirms the authority of a local government unit to authorize a third-party to install, construct, or maintain facilities controlled by a telecommunications right-of-way user, and prohibits a local government unit from imposing fees on the third-party different from those it is authorized to impose on the telecommunications right-of-way user.

Section 20 exempts wireless support structures owned, operated, maintained, or served by a municipal electric utility from the provisions of Minnesota Statutes, section 237.163.