



**Representative Ryan Smith &  
Representative Sarah LaTourette**

**Substitute H.B. 478 Sponsor Testimony**

Chairman Beagle, Vice Chair McColley, Ranking Member Williams and Members of the Senate Public Utilities Committee, thank you for the opportunity to offer sponsor testimony on Substitute House Bill 478. Since this bill focuses on small cell upgrades to wireless telecommunications networks, it might be helpful to start with a brief explanation about the importance of small cell technology. Small cells are low powered antennas that attach to streetlights and poles, primarily in public rights-of-way. These small antennas are an integral step in upgrading existing wireless networks in anticipation of delivering 5G data speeds. To put this in context, a 5G network will be up to 100x faster and 5x more responsive than the 4G networks we rely on every day. This network upgrade is necessary to support emerging technologies such as remote medicine, driverless cars, and the next generation of e-commerce. The goal of Substitute HB 478 is to establish a regulatory process that will facilitate this critical network upgrade and encourage the economic growth and jobs that will come with it.

With modernized rules in place, the wireless industry stands ready to invest \$275 billion to deploy 5G. This is on top of the \$200 billion already invested by wireless companies since 2010. Accenture predicts 5G investment will generate \$500 billion in economic growth, along with 3 million new jobs. Roughly 1 out of every 100 Americans will benefit from a new 5G job. By way of example, the industry estimates 8,025 new jobs created in Columbus; \$455 million estimated

GDP growth in Cincinnati; \$117 million estimated network investment in Cleveland; and \$81.09 million smart city benefits in Dayton.

Ohio residents and businesses win because wireless data is projected to increase five-fold by 2021, and small cells will be key to meeting that demand. Communities win because next-generation networks mean \$160 billion in estimated benefits and savings from wireless-enabled smart city solutions—lowered energy use, reduced traffic and fuel costs, and improved public safety applications.

Approximately one year ago, the General Assembly passed a law creating a uniform process to attract this capital investment and facilitate the deployment of small cell facilities throughout the state. Unfortunately, lawsuits were filed and four common pleas courts concluded that the 2016 small cell law violated the Ohio constitution's Single Subject Rule. Rather than merely passing the same language as a standalone bill, we asked the wireless industry and the municipalities to see if they could resolve their differences, so we can pass a law that will remove the uncertainty caused by the litigation and spur the investment and innovation as was originally intended.

Under the leadership of multiple mayors and managers associations, elected officials, city engineers, municipal lawyers and their outside counsel, a coalition of over 90 municipalities negotiated over the past three months with representatives from the wireless industry. The product of that hard work is Substitute HB 478 . This was truly a collaborative effort and the participants should be commended for not only their hard work but also their willingness to negotiate a solution. The bill before you balances the industry's need to deploy small cells in a timely manner with municipalities' legitimate interest in protecting the aesthetic character of the public way.

Some of the highlights of the bill include:

- Uniform fees - \$250 application fee per request; \$200 annual charge to attach to municipal owned or controlled poles (both may be increased 10% every 5 years)
- Uniform process for obtaining permits with deemed granted timelines – 90 days for collocations/replacements and 120 days for new poles
- Auto-tolling of deemed granted clocks calibrated to population size
- Tools for municipalities to protect the aesthetic character of the right-of-way:
  - reservation of space on poles for future public safety or transportation uses
  - spacing requirements to avoid pole clusters
  - local design guidelines
  - ability to suggest alternative locations for new poles
  - require construction completed within 180 days
  - height restrictions
    - 40' for new poles, which can be reduced to 35' in certain areas
    - 5' above existing structure height for collocations
  - operator must comply with rules requiring structures or facilities to be placed underground or elsewhere in public way
  - protection of historic districts and decorative poles
  - bonding to ensure removal of abandoned or unused wireless facilities

- Competitively neutral – same rules apply to cable operators and wireless service providers that operate small cell facilities and provide wireless service

A number of changes were made at the request of stakeholders during the committee process in the House. These changes from the As Introduced version of the bill include the following:

- clarifies collocations must be on wireless support structures as defined in the bill. This prevented redundancy and confusion as to what infrastructure small cell facilities could collocate on.
- clarifies that video service providers with the appropriate designations qualify as small cell facility operators and are available to utilize the expedite process
- clarifies the definition of utility pole,
- changes the word “person” to “operator” in the indemnification section to ensure that electric utility companies were not inadvertently subject to new indemnification requirements,
- ensures that approval of placement of small cells comes from municipalities for access to municipal infrastructure/right-of-way and not utility owned infrastructure.
- ensures that a holder of an existing cable franchise or video service authorization under Chapter 1332 is not required to obtain permits from a municipal corporation or pay fees to place micro wireless facilities under an existing franchise or video service authorization
- defines “micro wireless facilities” as a small cell facility that is not more than 24 inches in length, 15 inches in width, and 12 inches in height and that does not have an exterior antenna more than 11 inches

in length suspended on cable strung between wireless support structures

- preserves municipal corporation's ability require work permits for any installation in the public way
- clarifies that an authorization for a small cell facility applies only to the placement of the facility subject to the permit and does not authorize the construction and operation of a wireline backhaul facility

Chairman Beagle and Members of the Committee, thank you again for the opportunity to offer testimony on Substitute House Bill 478. Hopefully we've given you an idea of why establishing a uniform regulatory process that will facilitate this critical network upgrade is so important for Ohio's future. We would be happy to answer any questions you may have.