

MIKE KUGLITSCH

STATE REPRESENTATIVE • 84TH ASSEMBLY DISTRICT

DATE: May 30, 2017
RE: **Support for 2017 Assembly Bill**
TO: Assembly Committee on Jobs and the Economy
FROM: Representative Mike Kuglitsch
SUBJECT: Regulation of wireless facilities and imposing setback requirements for certain mobile service support structures.

Thank you Mr. Chair and Committee Members for today's hearing on Assembly Bill 348—which regulates 5G wireless deployment and authorizes setbacks for macro cell towers in single family zones.

I am here today to testify in support and ensure Wisconsin leads the way in deployment of the next generation of advanced wireless technology and return some local control to cell tower siting.

Rep. Ott's macro cell tower language is incorporated into this legislation with setbacks equal to the length of the tower's height, so a 200 foot tower would have a 200 foot setback from the property line in single family neighborhoods. This is a win for local governments and provides an ability for local communities to control the structures affecting local residents.

Consumers and businesses are using mobile devices more than ever before to connect to everyone and everything around them. From January 2007 through December 2016, wireless provider AT&T experienced a 250,000% increase in data usage. This legislation will help clear existing roadblocks to ensure that carriers are able to provide additional network coverage in the most efficient and cost-effective way possible.

Small cells are small antennas and some electronics that can be attached to existing utility poles, traffic lights and buildings to help densify and provide more capacity for a wireless network. The network is often deployed in specific locations, mainly dense urban areas, to help enhance connectivity and boost capacity for customers.

In short, 5G is the next generation of ultra-fast, flexible wireless connectivity. 5G's promise of greater speed and overall network performance brings huge opportunities not only for video, but also in the Internet of Things ... 4K video ... augmented and virtual reality ... smart homes and cities ... autonomous vehicles ... and much more.

Just one example --- According to a report by Accenture Strategy, "Smart City solutions applied to the management of vehicle traffic and electrical grids could produce \$160 billion in benefits and savings through reductions in energy usage, traffic congestion and fuel costs. These

(over)

5G attributes will enable cities to reduce commute times, improve public safety and generate significant smart grid efficiencies.”

Companies looking to invest in and deploy small cell technology in Wisconsin face a myriad of rules, policies and rates across the state’s different municipalities. Instead of a patchwork of various fees and standards across the state, AB 348 provides certainty and predictability for wireless providers who need to deploy the necessary infrastructure now to meet the timeline of 5G availability in 2019.

Seven states across the country have enacted similar small cell legislation – Iowa, Ohio, Indiana, Kansas, Virginia, Colorado and Arizona. And two states -- neighboring Minnesota and Florida -- have bills on their Governors’ desks.

This bill will set in place fair and consistent rules that simplify the process and allow companies to more quickly deploy small cell technology and bring advanced wireless infrastructure to Wisconsin business and customers.

We need to make sure we are among those top states, so Wisconsin residents and businesses are in a position to benefit from and enjoy the super-fast, next generation wireless broadband that is coming.

I believe it is our job as legislators to allow innovation and emerging technologies to prosper and to be welcome in our state and this legislation identifies Wisconsin as a technology leader in the Midwest.

I ask for your support of this legislation and I am happy to take any questions.

(over)



May 30th, 2017

Honorable Adam Neylon
Chair, Assembly Committee on Jobs and the Economy
Room 125 West
State Capitol
PO Box 8953
Madison, WI 53708

Honorable Edward Brooks
Vice-Chair, Assembly Committee on Jobs and the Economy
Room 20 North
State Capitol
PO Box 8952
Madison, WI 53708

RE: Support Assembly Bill 348 – Streamlined Deployment of Small Wireless Facilities

Dear Chair Neylon and Vice-Chair Brooks,

On behalf of CTIA, the trade association for the wireless communications industry, and its members, I am writing in strong support of Assembly Bill 348, related to the deployment of small wireless facilities. The people of Wisconsin continue to demand – at increasing levels – access to wireless products and services. This is demonstrated by the fact that there are over 5.4 million Wisconsin wireless subscribers, an increase of 15% from 2010.¹ These wireless subscribers are not just making simple voice calls as mobile data usage has skyrocketed 35 times since 2010.² These demands from the wireless industry's customers – your constituents – require that wireless networks be updated today and readied for the next generation of wireless networks. Assembly Bill 348 is a needed mechanism to accommodate consumer demands and help to realize the future.

Small wireless facilities – also known as small cells – are being widely deployed to accommodate this increased demand. Small cells are wireless antennas, typically no more than six cubic feet in volume, and associated equipment, generally less than twenty-eight cubic feet in volume, that are being installed on existing structures like utility poles, street lights and traffic signal poles. This global trend is sweeping the country. More than 250,000 small cells are expected to be installed

¹ FCC, Voice Telephone Services: Status as of December 31, 2015, November 2016, at <https://www.fcc.gov/voice-telephone-services-report>, last accessed 5/25/2017.

² CTIA's Wireless Industry Summary Report, Year-End 2016 Results, 2017, <https://www.ctia.org/docs/default-source/default-document-library/annual-year-end-2016-top-line-survey-results-final.pdf?sfvrsn=2>, last accessed 5/26/2017.



over the next few years in the United States, nearly the number of traditional “macro” cell sites built over the last 30 years.

Small cells enhance capacity on existing 4G LTE wireless networks by efficiently using scarce spectrum, and they will be required for the higher-frequency spectrum 5G networks will depend on. The benefits provided by 5G are astounding. 5G networks will provide increased capacity to accommodate growing consumer demands by connecting 100 times more devices. Imagine a future where nearly everything is connected to ubiquitous wireless networks at speeds up to 100 times faster than today. Imagine communities that are smarter and more connected. Entire sectors, from public safety to transportation, will be transformed.

In fact, Accenture recently published a study noting that 5G wireless networks could create as many as three million jobs and boost the U.S. GDP by nearly \$500 billion over the next seven years.³ More specifically, Wisconsin communities – from small towns to big cities – that embrace the next-generation of wireless connectivity will realize significant economic benefits. For instance, 5G deployment in a community like Milwaukee may create over 5,500 jobs and increase GDP by \$913 million, and a community like Sheboygan may create over 450 jobs and increase GDP by \$74 million.⁴

Furthermore, a report recently published by Deloitte illustrates how other industries are leveraging today's wireless platform for innovation and growth, and how increased wireless deployment will spur even more advancements in these key economic sectors⁵:

- **Energy.** Wireless-enabled smart grids could create \$1.8 trillion for the U.S. economy—saving consumers hundreds of dollars per year.
- **Health.** Wireless devices could create \$305 billion in annual health system savings from decreased costs and mortality due to chronic illnesses.
- **Public Safety.** Improvements made by wireless connectivity can save lives and reduce crime. A one-minute improvement in emergency response time translates to a reduction of 8% in mortality.

³ “How 5G Can Help Municipalities Become Vibrant Smart Cities,” Accenture Strategy, Jan 12, 2017. These estimates are based on expected benefits for the United States from next generation wireless networks and some smart city technologies. They are based on per capita application of the estimated national benefits to individual cities (e.g., the number of construction jobs are national averages assigned on a per-capita basis), and may vary depending on the individual city.

⁴ *Ibid.*

⁵ Deloitte, “Wireless Connectivity Fuels Industry Growth and Innovation in Energy, Health, Public Safety, and Transportation,” http://www.ctia.org/docs/default-source/default-document-library/deloitte_20170119.pdf, last accessed 5/26/2017.



- **Transportation.** Wireless powered self-driving cars could reduce emissions by 40-90%, travel times by nearly 40% and delays by 20% – and translate to \$447 billion per year in savings, and, more important, 21,700 lives saved.

That's the promise of the next-generation of wireless technology. America needs to lead in its deployment.

Assembly Bill 348 helps to remove barriers to efficient deployment of small cell wireless infrastructure by streamlining processes and imposing reasonable rates and fees. Assembly Bill 348 allows providers the opportunity to deploy small cells responsibly by having reasonable access to existing local infrastructure within and outside of the public rights-of-way (ROW). The legislation makes small cells on existing infrastructure a "permitted use" and not subject to the type of review larger "macro" towers receive. The legislation would also ensure that a small cell application is approved within 60 days if there are no deficiencies indicated by local government. Assembly Bill 348 also allows for consolidation of substantially similar small cell applications in order to minimize administrative impacts while improving efficiency.

Finally, it is important to note that Assembly Bill 348 places no limitations on localities' ability to deny permits based on building, safety or electrical codes or standards. There is no removal of localities' jurisdiction in these areas.

In closing, since January 2010, wireless carriers have invested more than \$203 billion to improve their coverage and capacity and better serve Americans, with \$26.34 billion invested in 2016 alone.⁶ As stated above, more than 250,000 small cells are expected to be installed over the next few years in the United States. Appropriate siting and land use regulation will facilitate and encourage capital investment because capital tends to flow to places that are ready for investment. Assembly Bill 348 will send a signal that Wisconsin is ready for investment.

Thank you for the opportunity to submit comments in support of Assembly Bill 348. CTIA strongly urges its approval.

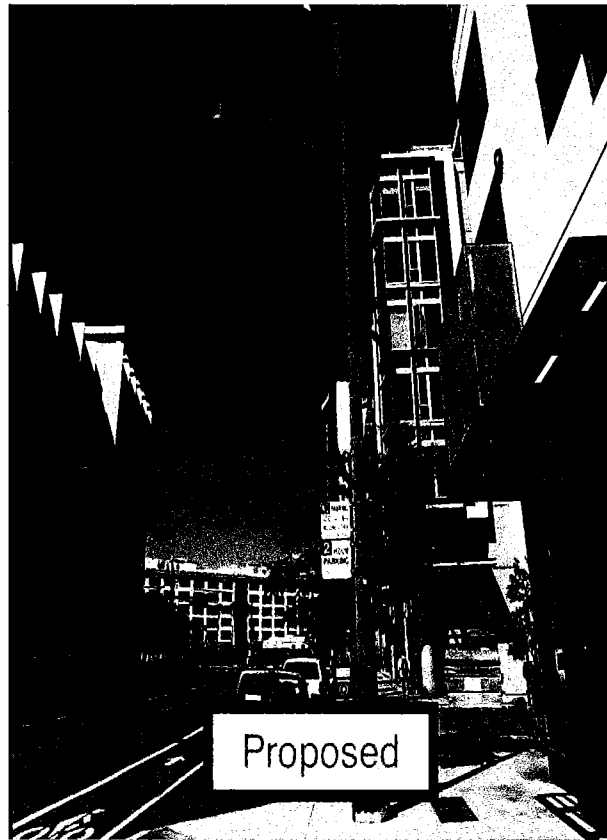
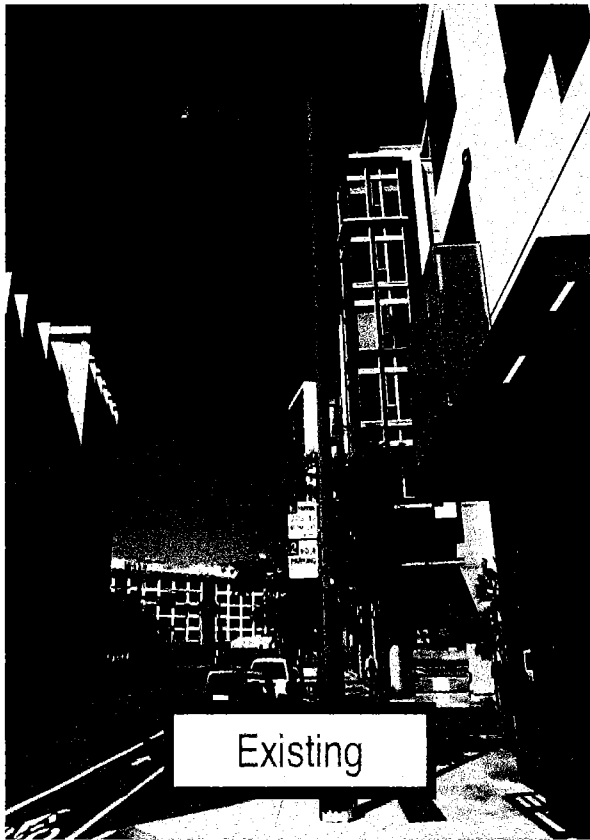
Sincerely,

Bethanne Cooley
Director, State Legislative Affairs
CTIA

⁶ CTIA's Wireless Industry Summary Report, Year-End 2016 Results, 2017, <https://www.ctia.org/docs/default-source/default-document-library/annual-year-end-2016-top-line-survey-results-final.pdf?sfvrsn=2>, last accessed 5/26/2017.



Example of a Small Cell



5G Wireless

CREATING JOBS & GROWING WISCONSIN'S ECONOMY

The Wisconsin State Legislature is considering a bill—AB 348—that could bring billions of investment and thousands of jobs across the state.

Wireless is an Economic Powerhouse.

Across the Badger State, wireless powers the economy, supports millions of jobs and helps enable Wisconsin's app economy. Currently, there are over 5.4 million wireless subscribers in Wisconsin and, in fact, 94% of Wisconsin residents use wireless.

The Next-Generation of Wireless.

To meet the demand for everything wireless, we're enhancing today's 4G networks and preparing for 5G. Faster, more responsive, and connecting more devices, 5G will unlock innovation and investment, transforming every sector of our economy. To make 5G a reality, our networks need more capacity, which means installing small wireless facilities or "small cells"—antennas the size of a pizza box—on vertical structures such as utility poles to street lamps.

New Rules for New Wireless Networks.

In many Wisconsin localities, however, the rules and regulations for wireless infrastructure are decades old. These regulations serve as barriers to 5G innovation. Legislators in Arizona, Colorado, Florida, Indiana, Iowa, Kansas, Minnesota, Ohio, Texas and Virginia have jumpstarted new investment in their states with the deployment of small cells.



5,597

NEW JOBS
IN MILWAUKEE



\$374M

GDP GROWTH
IN MADISON



\$40M

WIRELESS INVESTMENT
IN SHEBOYGAN



\$60.54M

SMART CITY BENEFITS
IN GREEN BAY

Unleashing Investment in Communities Nationwide.

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.

5G Benefits for Consumers and Communities.

Consumers 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.



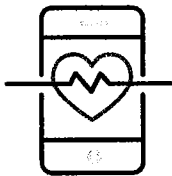
Cities and towns which are first to facilitate the wireless infrastructure evolution will see the greatest benefit.



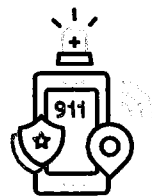
Accenture Strategy
JANUARY 2017

Keeping Wisconsin Safe.

5G will be faster (up to 100x faster than 4G), support more devices (100x more than today's networks) and respond in real-time (5x faster response time). This will have a dramatic impact on all of our lives, and make our lives better and safer. Thanks to 5G, wireless providers will enable breakthrough innovations around remote health care delivery/surgery and connected vehicles, as well as energy, education and other key parts of our lives.



Wireless connectivity will save lives and **\$305B** per year in health costs.



5G can help **save lives.** A 60-second improvement in first responder response time means a reduction of 8% in mortality.



Wireless-powered self-driving cars could save over **20,000 lives** and nearly \$450B each year.

Common Sense Reforms Helping Wisconsinites.

For policymakers, AB 348 represents an opportunity for a smart statewide wireless infrastructure policy to unleash the benefits of the next-generation of wireless with modernized procedures optimized for tomorrow's networks.

Help Us Unlock 5G investment and Create 5G Jobs.

Help make Wisconsin a more competitive place to innovate and invest. The wireless industry supports AB 348, and we hope you do too.



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league@lwm-info.org; www.lwm-info.org

To: Assembly Committee on Jobs and the Economy
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities
Date: May 30, 2017
Re: AB 348, Limiting the authority of local governments to regulate small cell wireless facilities in the right-of-way and authorizing local governments to impose setback requirements on cell towers in single family residential districts

Good afternoon. My name is Curt Witynski. I'm the Assistant Director of the League of Wisconsin Municipalities, a non-profit association representing 189 cities and nearly 400 villages.

I'm testifying this afternoon for information purposes only on AB 348. The bill contains changes to state law that we like, but also contains limitations on municipal authority about which we have concerns.

I want to emphasize at the outset, however, that the authors and proponents of the bill have met with League staff on several occasions and agreed to make specific changes to earlier versions of the bill that we requested. These changes addressed several of our major concerns and we continue to have conversations about making additional technical and other changes to the bill. We very much appreciate the approach the authors have used on this bill. The more open process being used to develop this bill is in stark contrast to the budget amendment passed several years ago without a public hearing or any opportunity to comment that fully preempted municipal authority to regulate the placement of traditional cell towers.

What we like about the bill:

1. Language restoring municipal authority to impose setback requirements on the placement of traditional cell towers within single family zoning districts. (We have concerns about the narrowness of this language, which I discuss below).
2. Language allowing municipalities to regulate by permit and possibly disallow wireless facilities in the right of way within historic districts and areas where all other utility facilities are required to be placed underground.
3. Language ensuring that the bill does not overturn existing contracts that municipalities have entered into with wireless providers establishing higher rates for use of municipal poles than allowed under the bill.
4. Language requiring a wireless provider to indemnify and hold harmless a municipality for any liability and loss that results from the use of the right-of-way.

Additional Changes we hope to see to the bill: We ask the author and proponents of the bill to consider making the following changes:

YOUR VOICE. YOUR WISCONSIN.

1. We have concerns about the narrowness of the language allowing municipalities to impose setback limits on cell towers in residential districts. The language in Rep. Ott's bill, AB 161, from which this part of the bill is modeled, is preferable from our perspective. It applies to any parcel of land that is subject to a zoning ordinance that permits residential use on that parcel. While that might be too broad from the industry's perspective, the bill as drafted is too narrow. It only allows setbacks on parcels that are zoned for only single-family residential use or for which only single-family residential use is a permitted use. So, a setback requirement would not apply to a church, for example, located in a single-family residential district.
2. We seek language clarifying that municipalities may disallow small cells in the right-of-way if necessary to protect the public's health and safety.
3. We seek language making it clear that wireless providers, like other utilities using the right-of-way, are responsible for covering the cost of moving their wireless facilities in the right-of-way to accommodate street widening and other municipal street construction projects.
4. Under the bill, the rate a municipality may charge a wireless provider for locating a small cell facility on a municipally owned pole is the lesser of a municipality's cost of regulation or \$100. In our discussions with the author on this topic we understood that the pole rental rate was a maximum of \$100 period, not the lesser of actual cost or \$100. We request that the lesser of language be stricken.

We will continue to have discussions with the author and the proponents of the bill on ways it can be improved. We appreciate the collaborative approach the author has taken, the opportunity to be heard, and that many of our concerns are being addressed.

Wisconsin Towns Association

MIKE KOLES, EXECUTIVE DIRECTOR

Carol Nawrocki, Assistant Director

Rick Manthe, Legal Counsel/Lobbyist

W7686 County Road MMM, Shawano, Wisconsin 54166-6086

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AB 348 Written Testimony

Towns in Wisconsin face a unique challenge as it relates to wireless and internet service in their communities. It is a prerequisite to a 21st century economy, yet rural America has not fully realized the benefits of wireless or internet service because it is not ubiquitous. This is leaving vast portions of Wisconsin behind. Towns support rapid expansion of these services throughout the entire state. Towns also support provision and maintenance of quality highway right-of-ways and road infrastructure. This includes a roadway that is safe for the traveling public, well drained, and can be maintained in the most efficient manner possible with the least cost to the taxpayer.

It is important for towns to help remove barriers to deployment of wireless service and also ensure public safety, protect crucial infrastructure, and minimize taxpayer costs. This does not have to form a dichotomy. AB348 removes many barriers and we are supportive of much of the bill. It also impacts town governments' ability to effectively protect infrastructure in a number of ways that we are hopeful can be addressed. Today I want to focus on three main impacts: maintenance and care of highway right-of-way, fees, and public safety. Although the Bill has many impacts on local governments that I've noted in a memo, these are the three most important issues.

Towns are responsible for the care and supervision of their highways. They take this role very seriously. Roads are typically a town's largest expenditure. Reconstruction costs can run from \$180,000 to \$450,000 per mile, so it is not unexpected that town officials are protective of the taxpayer investment and are wary of anything that might damage those significant investments.

Water is one of the biggest problems for roads. Without proper drainage a highway's life expectancy greatly diminishes. Town officials work diligently to clear the right of way to ensure proper drainage, yet they get almost daily calls of blockages that cause water to pool in the ditch and onto private property. AB348 takes away the local government's ability to prevent wireless structures from impeding proper drainage. This has the potential to decrease road life and cause private property concerns. We hope the committee would be amenable to maintaining this authority for town government.

AB348 also takes away local government's ability to ensure that wireless facilities don't cause problems for maintenance of the right-of-way. Placing structures in the right-of-way increases mowing, brushing, and winter maintenance costs. Each time a mower or brusher has to go around something - that increases costs. When a plow driver has to maneuver around wireless facilities, especially when it is trying to

wing plow in between snow storms - that increases costs. We hope the committee would be amenable to maintaining this authority for town government.

AB348 does allow a town to charge a yearly rate for use of the right-of-way, but that amount is capped at \$20 per year. Current law through Wis. Stat. § 66.0628 already allows a local government to only charge a fee/rate that is reasonably related to the licensed activity and covers the actual costs of the government. This Bill reiterates that principle. These two areas of the statutes adequately prevent a local government from treating permitting as a money maker. However, by capping the charge at \$20, local government cannot recuperate any costs above that amount. This means taxpayers will have to subsidize private industry. We would hope this committee would be amenable to protecting taxpayers from subsidizing wireless providers.

Another cost that would not be reimbursed and taxpayers would have to subsidize is the hiring of experts. A town might have to hire an expert to assess the impact on drainage and public safety. It most certainly will have to hire an expert in determining the cost associated with the make ready work requirement included in Section 2 of the bill. Despite the requirement that I noted earlier that towns can't charge for more than their costs, AB348 caps the application fee at the lesser of their building permit fee or \$100 for the first five poles or facilities and \$50 for every pole thereafter. In cases where costs are greater, taxpayers will have to subsidize private industry. Again, we would hope this committee would be amenable to protecting taxpayers from subsidizing wireless providers.

I want to finish by talking about public safety. On page 11, a town can prevent a wireless facility from hindering travel or public safety. We are confused by later language that only allows a town to propose an alternate location within 50 feet of the proposal and the ability to the provider to reject the alternate location and use the original if it increases costs of the project by even one dollar. We are also confused by later language that could have the impact of preventing any kind of local government rejection of an application, even for public safety, unless the proposal violates state code. Admittedly, we could be reading this differently than intended, but given the short notice we haven't been able to talk to the authors. We would hope that this committee is interested in maintaining the ability of local government to prevent hazards to the traveling public and maintaining of public safety and would be open to any amendments to ensure this is achieved.

Overall AB348 takes positive steps toward removing barriers to provision of wireless services to which we are supportive. We ask that you consider some minor amendments that I've noted today and in my memo to ensure public safety, protection of road infrastructure investment, and to prevent increased taxpayer costs. Thank you.

Wisconsin Towns Association

MIKE KOLES, EXECUTIVE DIRECTOR

Carol Nawrocki, Assistant Director

Rick Manthe, Legal Counsel/Lobbyist

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MEMO TO: Representatives Neylon (Chair), E. Brooks (Vice-Chair), Zimmerman, Kulp, Tittl, Macco, Snyder, Wichgers, Ohnstad, Stuck, Fields, and Crowley.

FROM: Rick Manthe, WTA Legal Counsel/Lobbyist

DATE: 5/30/17

RE: AB 348 requested amendments

Towns in Wisconsin face a unique challenge as it relates to wireless and internet service in their communities. These services are a prerequisite to a 21st century economy, yet rural America has not fully realized the benefits because these services are not ubiquitous. This is leaving vast portions of Wisconsin behind. Towns support rapid expansion of these services throughout the entire state. Towns also support provision and maintenance of quality highway rights-of-way and road infrastructure. This includes a roadway that is safe for the traveling public, well drained, and can be maintained in the most efficient manner possible with the least cost to the taxpayer. The WTA has an interest in creating a framework that encourages the deployment of these services while also respecting the need for local governments to protect the right-of-way and all stakeholders that rely on it. With these principles in mind, WTA requests changes and clarifications that will ensure AB348 best serves local governments, wireless providers, and the general public.

Broadly speaking, this Bill creates a regulatory framework for wireless service providers placing equipment both in and outside of local government rights-of-way. Providers are given access to rights-of-way with limited exceptions. Local governments are allowed to require a permit for use of small-cell wireless facilities and support structures; however, the discretion given to local governments is limited. The Bill also limits fees or rates that governments can charge providers that goes beyond the current limitation that only allows for recuperation of government costs.

Structures in the Right-of-Way

The permitting process for installation of facilities and structures as described in AB 348 lacks some clarity and leaves local governments with little discretion over the process in general. The Bill states that new facilities may not obstruct or hinder travel or public safety on or around the right-of-way, or interfere with other uses in the right-of-way. But, local governments must approve applicants as long as they meet applicable codes. It is somewhat unclear whether a town may deny a permit for the impacts on public safety or traffic flow.

Even if a local government can preserve public safety and the flow of traffic, there are many other potential concerns that towns would no longer be able to address. This Bill does not address drainage issues within the right-of-way. Water is one of the biggest problems for roads. Without proper drainage a highway's life expectancy greatly diminishes. Town officials work diligently to clear the right-of-way to ensure proper drainage, yet they get almost daily calls of blockages that cause water to pool in the ditch and onto private property. AB348 takes away the local government's ability to prevent wireless structures from impeding proper drainage. This has the potential to decrease road life and cause private property concerns. We hope the committee would be amenable to maintaining this authority for town government.

AB348 also takes away local government's ability to ensure that wireless facilities don't cause problems for maintenance of the right-of-way. Placing structures in the right-of-way increases mowing, brushing, and winter maintenance costs. Costs are increased when a mower or brusher has to go around something. Cost are increased for winter maintenance when a plow driver has to maneuver around wireless facilities, especially when it is trying to wing plow in between snow storms. We hope the committee would be amenable to maintaining this authority for town government.

Additionally, AB348 only allows local government to request the wireless provider to move the placement of a support structure up to fifty feet. This might not be enough to address public safety, travel, drainage, or road maintenance cost concerns. Furthermore, this ability is severely limited. A town could request the provider to move the pole, but if it increases the cost, even by \$1, the wireless provider does not have to comply. We hope the committee would be amenable to allowing local government more authority to protect public safety, etc.

AB348 does not allow installation of equipment if it obstructs the legal use of right-of-way of another provider, public utility, or cooperative association for utility purposes. One important item left off this list is farmers and the use of manure lines. Wis. Stat. § 86.16 allows farmers to place manure lines in the right-of-way. This omission creates an interpretation issue as to whether manure lines are protected when installing support structures.

Another major concern is uncertainty over responsibility for moving equipment if the need arises. Sometimes highways require reconstruction, shifting, or widening. The Bill does not address who covers the cost of moving the equipment. This uncertainty could add another large expense to local governments.

Local Government Permit Fees and Rates

Currently, Wis. Stat. § 66.0628 prevents local governments from charging fees beyond the actual cost to the local government. In other words, a town cannot profit from a rate/fee it imposes. Despite Wis.

Stat. § 66.0628, AB348 redundantly reiterates such and also goes further by capping application fees and rates local governments may charge.

Any rate or fee charged to a provider must be the same as any other person would pay for use of the right-of-way. The Bill also places limits on the dollar amounts local governments could require. This means that local government costs could exceed what they are legally allowed to charge.

AB348 does allow a town to charge a yearly rate for use of the right-of-way, but that amount is capped at \$20 per year. By capping the charge at \$20, local government cannot recuperate any costs above that amount. This means taxpayers will have to subsidize private industry.

Another cost that would not be reimbursed and taxpayers would have to subsidize is the hiring of experts. A town might have to hire an expert to assess the impact on drainage and public safety. It most certainly will have to hire an expert in determining the cost associated with the make ready work requirement as noted below. Despite the existing requirement that towns can't charge for more than their costs, AB348 caps the application fee at the lesser of their building permit fee or \$100 for the first five poles or facilities and \$50 for every pole thereafter. In cases where costs are greater, taxpayers will have to subsidize private industry. We would hope this committee would be amenable to protecting taxpayers from subsidizing wireless providers.

Collocation of Wireless Facilities on Government Structures

The Bill mandates provider access to government structures for small cell wireless facilities. The provisions of the bill have the potential to pass costs onto local governments. If a provider wants to use a government owned pole, the municipality must provide an estimate to make the pole ready to support the wireless facility, which includes pole replacement costs. This means if a government owned pole is not capable of supporting the facility, it must figure out what needs to be done to attach it. The local government would not have to pay the costs of upgrading the pole under the Bill except for two exceptions. Fees for preexisting conditions, prior damage, or noncompliance with applicable standards cannot be charged to the provider. It is easy to imagine a conflict over what constitutes a preexisting condition or prior damage. Another fee exclusion is for expert or consultant fees. The municipality must cover these costs and cannot seek reimbursement. It is another example of local taxpayers having to carry more of the burden through the permit process.

Dispute Resolution

AB 348 puts the burden of defending an application fee on the town government versus the provider (i.e., it is presumed the town is wrong). This creates a situation where already over-burdened taxpayers will have to pay attorneys to defend against industry. Additionally, if there is a rate dispute, the local government must still allow installation of structures during the dispute. The municipality will only receive either half of its rate or \$20, whichever is less, until the dispute is resolved.

Additional Challenges

AB 348 has the potential to restrict what a municipality could recover for damage to the right-of-way. Wis. Stat. § 86.02 allows a municipality to recover treble damages from anyone who damages the right-of-way. The Bill specifically requires the provider to repair any damage they cause to the right-of-way, but the language as written in AB 348 could prevent collection of treble damages.

AB 348 allows permitted work to continue until completed with no requirement for permit renewal. Local government will be left not knowing if or when to expect work in their right-of-way or whether work was ever fully completed. In addition to the obvious communication challenges with both industry and citizens, it could cause road infrastructure construction and maintenance conflicts.



Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Jennifer Gonda
Director of Intergovernmental Relations

**City of Milwaukee Testimony on Assembly Bill 348
Assembly Committee on Jobs and the Economy
May 30, 2017**

The City of Milwaukee began working with Small Cell service providers approximately two years ago and has negotiated contracts with five different companies to allow for such collocation. These contracts have come with a learning curve in understanding the various companies' needs, while preserving public safety through protection of our facilities. We have diligently worked through adjustments in our processes to allow for this collocation because Milwaukee is excited about the technology and the increased service level it can provide to our community.

AB348 imposes restrictions that directly affect the way Milwaukee reviews applications for use of the Right of Way in two ways: (1) the permitting process for providers to locate their own equipment, including poles or support structures, in the Right of Way, and (2) the negotiated contracts for collocation on City of Milwaukee owned facilities.

- AB348 sets permit fees lower than currently offered to any other utility or business for services within the Right of Way. It is unnecessary to limit our fee to a specified amount since State law already restricts our fees to be based on our actual and direct costs associated with staff time to review, process, and inspect the proposed work. Fees specified in the bill simply aren't enough to cover staff time to review plans and ensure that a gas main won't get hit and cause an explosion or an underground electrical disconnection won't knock out power to an entire neighborhood. Defining the fees by statute will mean that in future years as costs undoubtedly increase, so too will our inability to recover costs. Taxpayers will be subsidizing construction of the network for the wireless providers. In bundled applications a decreased cost per pole after the first five implies efficiency in review; however, no efficiency is realized in reviewing multiple poles. Each location requires the same diligence to ensure the installations allow for accessibility in compliance with the Americans with Disabilities Act and do not conflict with basic services to the community: water mains, sewer laterals, electrical lines and other necessary utilities. **In order to maintain our level of service to other businesses and utilities, we need to recover our actual costs and the number of permits bundled into one application needs to be limited to ten within a 500 foot radius.**
- AB348 allows wireless service providers to bundle an unlimited number or locations in one permit application. Milwaukee has seen the number of locations the five providers are planning and fully expects we have not seen the full world of anticipated builds. Initial numbers indicate Milwaukee could see over 500 applications immediately. We are not equipped with budget or staff to process more than 200 total right of way permits in a 30 day period. Even if fees made it possible for us to adequately hire for the anticipated increase in permit applications, we do not expect the number of applications to persist

once the initial build is complete. Building permits; water, gas, sewer service lines; electrical service permits will all suffer in the level of service we can provide in reviewing and approving in a timely manner. We do not have the ability to adequately review a larger number of permits within the short timeframe specified. **The time allowed for the municipality to approve or deny the permit must be extended by 30 days if the wireless service providers collectively submit in excess of 100 locations in a 30 day period.** A similar accommodation was enacted in Iowa and we ask for the same consideration.

- AB348 specifies application review times that are not consistent, citing a 90 day and a 60 day review time as well as a 30 day review time for resubmittal of denied applications. **Operationally, it is very difficult to track different timeframes for permits, and the allowable review time for all applications must remain consistent.** Further, if a permit is denied, it should be resubmitted as a new permit application and be subject to the same timeframes. Requiring a 30 day review for a resubmittal of a denied application will provide preference to the wireless service providers not afforded to applicants of other permits, such as building permits or water, sewer, and electrical service lines permits.
- For collocation on government poles, AB348 sets requirements for work the municipality must perform to a 60 day period for review and a 60 day period for “make ready work.” However, the wireless service provider has 365 days following application approval to construct and install their equipment. These timeframes are unrealistic and greatly favor the wireless service provider. Logistically, the municipality will need to work closely with the wireless service provider and coordinate the pole replacement with the installation of new electrical service, fiber installation, and equipment installation within and on the pole. At a minimum, safety standards will dictate an additional trip for our electricians to de-energize the electrical within the poles for the providers to install their equipment. **For the municipality and the small wireless provider to work efficiently, the make ready work must be coordinated with the installation of the equipment.**
- AB348 allows political subdivisions to charge wireless service providers a rate or fee for use of the right of way only if charges also apply to communication service providers or utilities. The State of Wisconsin currently does not allow political subdivisions to charge utilities for use of the right of way. **The language in 66.0414(2)(c) Rates and Fees should be modified to apply only to wireless service providers.**
- The bill essentially renders our contracts completely useless. We have negotiated contracts in good faith with 5 wireless providers and currently negotiating a sixth. The contracts set an initial term of 5 years with four 5-year renewal periods. In Section 3, Nonstatutory provisions, we suggest the language, “the person may perform its obligations, and exercise its rights, under those provisions of the contract until the contract expires” be changed to “the person *shall* perform its obligations, and exercise its rights, under those provisions of the contract until the contract expires. At least five wireless service providers have agreed that collocation on government poles in the City of Milwaukee is worth well over the \$100 per pole per year this bill specifies. Our rate was negotiated based on market analysis throughout the U.S. Limiting the fee to \$100 per pole cheats local governments that have analyzed the revenue source and plan to pass that revenue to the tax payers by increasing services.

As currently proposed the City of Milwaukee opposes AB 348 because we are not able to recoup our full costs to provide a full review to protect our facilities and the public, there is no limit to the number of locations within one application, the application review timelines are inconsistent making implementation difficult, we cannot coordinate make ready work with the companies because they have up to a year to begin their work whereas we only have 60 days to complete the make ready, and the bill effectively renders our contracts useless. For these reasons, we ask you to oppose AB 348 unless modified to address our concerns. We hope to work with you to work out mutually agreed upon changes to effectively assist the wireless service providers in bringing their services to customers without offering the government subsidy this bill currently provides.

Thank you for the consideration of our concerns.

For more information or questions, please contact:

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May 30, 2017

TO: Assembly Committee on Jobs and the Economy

FROM: Tom Still, president, Wisconsin Technology Council

RE: AB 348/ Related to wireless facilities

Thank you, Chairman Neylon, and members of the committee.

The Wisconsin Technology Council has long advocated for advances in technology, infrastructure and public policy that can better connect the state and its citizens to the digital economy.

Assembly Bill 348 offers the latest chance to do precisely that, and I urge your favorable consideration.

The world, U.S. and Wisconsin economies are entering an era when digital connections will be more important than ever before.

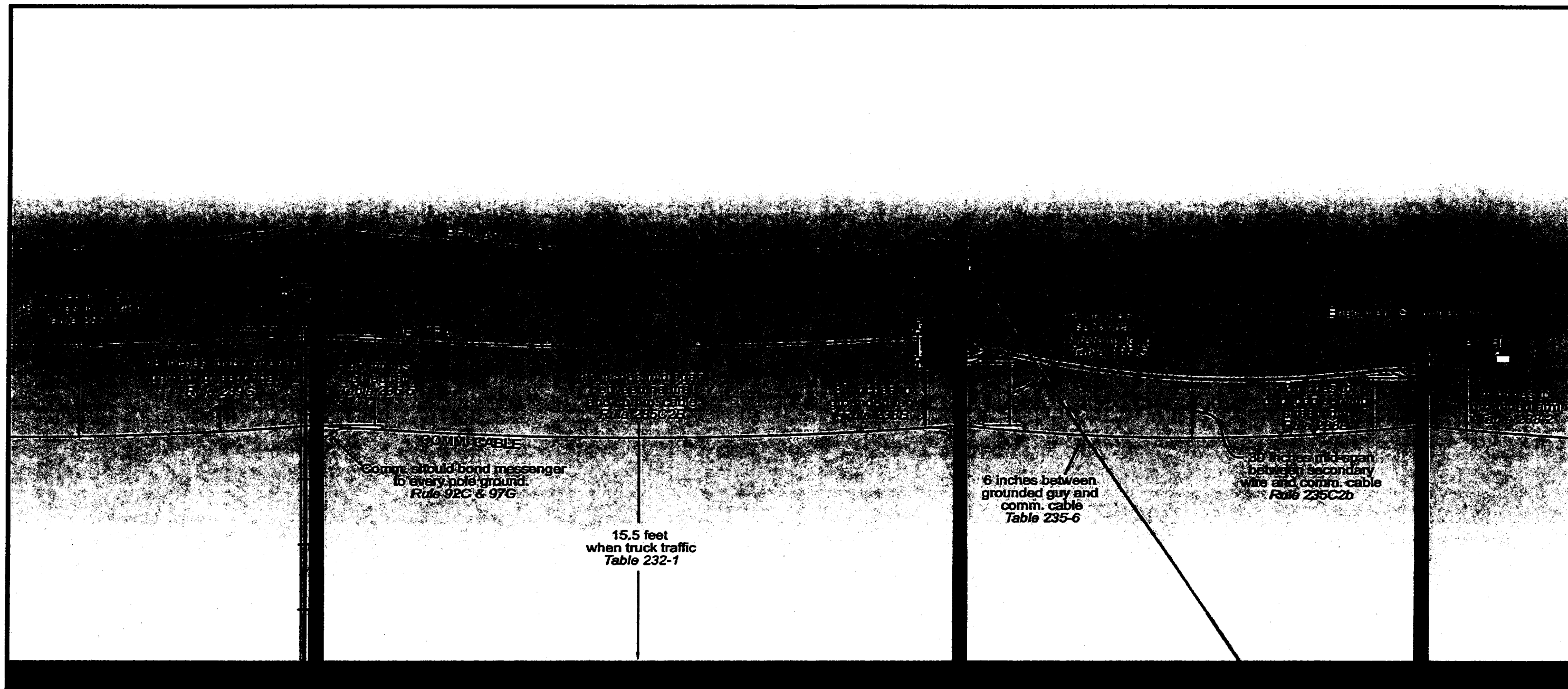
The continued rise of the digital economy is embodied in a mix of issues that have come – or will come – before this very committee, such as legislation related to autonomous vehicles, drones, workforce development and more.

Since the introduction of first generation (1G) wireless technology in 1983, the evolution of wireless communications has laid the foundation for broad economic growth across the United States and in Wisconsin.

The next generation of wireless service will be built using small-cell networks employing fifth generation or 5G wireless technology.

5G will help to transform the way people work, play and live.

- 5G promises to take people places they've never been by unlocking new experiences such as augmented realities, virtual presence, driverless cars, telemedicine and connected homes.



A **worker safety** zone is 40 inches of clearance between communication lines and supply lines/equipment.

- 5G will accelerate the delivery of entertainment at home and on the go and many more consumer and business experiences.
- 5G is ideal for bandwidth-hungry applications because it will support multiple radio interfaces, enable more spectrum efficiency, and take advantage of our advanced network capabilities.
- The connectivity and computing capacity unleashed by these high-speed wireless networks will bring the power of Smart City solutions to municipalities across the country.
- 5G service is estimated to provide wireless devices with up to 1 Gigabit of speed, faster than most existing home connections.

This technology can help to evolve local economies. For example, management of vehicle traffic and electrical grids can produce huge benefits and savings through reductions in energy usage, traffic congestion and fuel costs. These 5G qualities will enable cities to reduce commute times, improve public safety and generate significant smart grid efficiencies.

AB 348 provides a framework for managing the deployment of small-cell technology while still encouraging investment in 5G wireless technology and all the benefits it will yield.

While communities large and small will benefit from small-cell and 5G technologies, the effect may be most pronounced in rural Wisconsin and the state's small to mid-sized cities.

Wisconsin is, in fact, a state of mid-sized cities. They are a major part of the state's quality of life. That quality of life will be difficult to sustain, however, if the state does not keep pace with emerging technologies that enhance the ability of businesses to compete, of tourists to enjoy their experiences, of students to learn and of all our citizens to prosper and remain safe.

Thank you for helping to keep Wisconsin on the forefront of the digital economy.

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