

May 29, 2018

House Energy Committee Standing Meeting

SB 637 – Comments opposing the bill

Dear Chairman Glen and Committee Representatives:

I am a resident of Ann Arbor. I am here today to provide reasons for opposing SB 637, the small wireless communications facilities deployment act. SB 637 was created to:

1. increase services and information access for Michigan residents,
2. increase Michigan's competitiveness in the global economy,
3. streamline bureaucratic processes, and
4. ensure fairness in competition.

No one can argue that these intentions are not good. However, the bill tries to accomplish these purposes at the expense of the local government's authority and the Michigan residents.

I spoke with Ann Arbor City's Administrator, Mr. Howard Lazarus. He and I share the following concerns regarding the bill:

- A. The regulation of the public ROW is a fundamental authority of the local government on behalf of its residents. It is wholly appropriate for local governments to negotiate and ensure the greatest benefits for its residents for uses of the ROW through license agreements. SB 637 prevents this in following ways:
  1. It prohibits the ability of local governments to require colocation of facilities on a single pole which would prevent unnecessary proliferation of poles in a community.
  2. It prohibits the ability of local governments to address the aesthetics of installations in the ROW, especially as it relates to historic districts and residential areas. Reasonable regulation of the form and design of the devices and poles forces better engineering from the wireless communication providers, or telecoms. However, the bill does not allow for this.
  3. It does not provide for the ability of local governments to participate in the economic benefits and profits that the telecoms will reap from providing wireless services on its public assets. Regulation and licensing of the ROW is one of the few remaining economic options local governments retain that have not already been eliminated or restricted by State action.
  4. It does not provide for the ability of local governments to require telecoms to provide additional capacity for municipal uses which is an essential component of private uses of public assets.
  5. It does not provide for the ability of local governments to establish and enforce fiscal responsibility for the removal of small cell facilities and poles and restore the ROW to its original form when the devices and infrastructure become functionally obsolete, inoperable, or unnecessary.

6. **It does not provide for** the ability of local governments to require free WIFI services in public areas as a condition of the license agreement, which is both a competitive and equity issue.
  7. **It does not provide for** the economic adjustment of the fees for permits and licenses. Legislative action at the State level would be required to address local costs and a fair and reasonable sharing of the benefit gained from private entity use of the public ROW.
- B. The primary funding mechanism for local access television networks are cable connections. Funding via cable connections will evaporate over the long term as the telecom industry moves away from cable towards wireless communications. SB 637 has no provision for accommodating this industry change, so practically speaking, local access television will disappear with this bill.
- C. Telecoms are private entities with obligations to shareholders and investors, not the public they serve. Telecoms do not readily or voluntarily seek to provide in areas where they will not see a return on their investment. Contrary to the intention of the bill to increase the public's access to information and services, SB 637 allows telecoms to advance their own financial interests and expand the digital divide that separates our communities.
- D. SB 637 privatizes all of the benefits of wireless communications to the telecoms and socializes the cost to the public. Eliminating the ability for local governments to access a share of the tremendous financial benefits that the telecoms will realize is not in the public interest.

These are high level concerns about SB 637 that are shared by Mr. Lazarus and myself. Hereafter, I will be stating additional concerns representing only myself.

Looking at details in SB 637, things are even more alarming:

- E. The permit and license fees cannot exceed \$20 per pole. It is impossible to cover any review of the ROW for a pole for \$20, so the local government has to bear the substantially higher cost of the fee required for the review, less the \$20, or give permission for the ROW without any review so that it did not incur the additional cost.
- F. If the local government refuses a permit, it has to provide **SUBSTANTIAL EVIDENCE** for its decision. What constitutes substantial evidence? SB 637 does not say. This leaves the local government exposed to litigation by the telecoms who have a lot of financial support where the local governments do not. Consequently, SB 637 intimidates local governments.
- G. The ROW permits and licensing are exempt from all local zoning requirements. Not only does this remove any local control over the use of the community's public assets, it sets a dangerous precedent for future legislation.

SB 637 does not ensure that Michigan residents will be provided enhanced access to services and information, nor fair and equitable access. It does not provide clear measures that it will enhance Michigan's global economy. Instead, the economic benefits will be funneled to the telecom corporations' shareholders. The bill's process streamlining comes at the price of eliminating local governments' control over its public assets with the cost borne by the local communities. SB 637 is flawed, wrong, and cannot deliver on its intentions. It needs to be stopped.

**Please vote NO on SB 637.**