STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1146
By: Bice

AS INTRODUCED

An Act relating to telecommunications; creating the Oklahoma Small Wireless Facilities Deployment Act; stating Legislative findings; defining terms; establishing procedures for the deployment of small wireless facilities and utility poles within a right-of-way; establishing the permitting process for wireless providers utilizing small wireless facilities in certain areas; establishing permitting process for wireless providers installing and maintaining utility poles in certain areas; establishing exceptions to the permitting process; establishing timeframes for processing certain applications; establishing procedures for certain application process; establishing procedures for the collocation of small wireless facilities; establishing procedure for determining reasonability of certain fees and rates; establishing procedures for wireless provider access to utility poles in certain areas; establishing permissible rates and fees for certain activities related to small wireless facility deployment; exempting certain entities from application of act; establishing procedures for agreements and ordinances adopted by certain entities for implementation of this act; establishing jurisdiction for dispute resolutions related to this act; establishing procedures for requirements related to indemnification, insurance and bonding in implementation of this act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
1. **SECTION 1. NEW LAW** A new section of law to be codified in the Oklahoma Statutes as Section 36-501 of Title 11, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Small Wireless Facilities Deployment Act".

2. **SECTION 2. NEW LAW** A new section of law to be codified in the Oklahoma Statutes as Section 36-502 of Title 11, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that:

1. The deployment of small wireless facilities and other next-generation wireless and broadband network facilities is a matter of statewide concern and interest;

2. Wireless and broadband products and services are a significant and continually growing part of the state's economy; accordingly, encouraging the development of strong and robust wireless and broadband communications networks throughout the state is integral to the state's economic competitiveness;

3. Rapid deployment of small wireless facilities will serve numerous important statewide goals of meeting growing consumer demand for wireless data, increasing competitive options for communications services available to the state's residents, promoting the ability of the state's citizens to communicate with other citizens and with their state and local governments, and promoting public safety;
4. Small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, often may be deployed most effectively in the rights of way;

5. To meet the key objectives of the Oklahoma Small Wireless Facilities Deployment Act, wireless providers must have access to the rights of way and the ability to attach to infrastructure in the rights of way to densify their networks and provide next generation wireless services;

6. Uniform rates and fees for the permitting and deployment of small wireless facilities in rights of way and on authority infrastructure, including poles, throughout the state is reasonable and will encourage the development of robust next-generation wireless and broadband networks for the benefit of citizens throughout the state; and

7. The rates and fees in this act are fair and reasonable when viewed from the perspective of the state's citizens and the state's interest in having robust, reliable and technologically advanced wireless and broadband networks; and reflect a balancing of the interests of the wireless providers deploying new facilities and the interests of authorities in recovering their costs of managing access to the rights of way and the attachment space provided on authority infrastructure and receiving the fair value of such rights of way.
SECTION 3. NEW LAW  

A new section of law to be codified in the Oklahoma Statutes as Section 36-503 of Title 11, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Small Wireless Facilities Deployment Act:

1. "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services;

2. "Applicable codes" means uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to Persons to the extent not inconsistent with this act;

3. "Applicant" means any person who submits an application and is a wireless provider;

4. "Application" means a request submitted by an applicant to an authority:

   a. for a permit to collocate small wireless facilities, or

   b. to approve the installation, modification or replacement of a utility pole or wireless support structure;

5. "Authority" means the state or any agency, county, municipality, district or subdivision thereof or any instrumentality
of the same, including, but not limited to public utility districts, public trusts, irrigation districts and municipal electric utilities. The term shall not include state courts having jurisdiction over an authority;

6. "Authority pole" means a utility pole owned, managed or operated by or on behalf of an authority;

7. "Authority wireless support structure" means a wireless support structure owned, managed or operated by or on behalf of an authority;

8. "Base station" means wireless facilities or a wireless support structure or utility pole that currently supports wireless facilities. The term does not include a tower, as defined in 47 U.S.C. Section 1.40001(b)(9), and the associated wireless facilities;

9. "Collocate" means to install, mount, maintain, modify, operate or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a corresponding meaning;

10. "Communications service provider" means a cable operator, as defined in 47 U.S.C. Section 522(5); a provider of information service, as defined in 47 U.S.C. Section 153(24); a telecommunications carrier, as defined in 47 U.S.C. Section 153(51); or a wireless provider;
11. "Decorative pole" means an authority pole that is specially
designed and placed for aesthetic purposes and on which no
appurtenances or attachments, other than a small wireless facility
or specially designed informational or directional signage or
temporary holiday or special event attachments, have been placed or
are permitted to be placed according to nondiscriminatory municipal
rules or codes;

12. "FCC" means the Federal Communications Commission of the
United States;

13. "Fee" means a one-time, nonrecurring charge;

14. "Historic district" means a group of buildings, properties
or sites that are either listed in the National Register of Historic
Places or formally determined eligible for listing by the Keeper of
the National Register, the individual who has been delegated the
authority by the federal agency to list properties and determine
their eligibility for the National Register, in accordance with
Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement
codified at 47 C.F.R. Part 1, Appendix C;

15. "Law" means federal, state, or local law, statute, common
law, code, rule, regulation, order or ordinance;

16. "Micro wireless facility" means a small wireless facility
that meets the following qualifications:
a. is not larger in dimension than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height, and

b. any exterior antenna is no longer than eleven (11) inches;

17. "Permit" means a written authorization required by an authority to perform an action or initiate, continue, or complete a project;

18. "Person" means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization, including an authority;

19. "Rate" means a recurring charge;

20. "Right(s)-of-way" means the area on, below or above a public roadway, highway, street, sidewalk, alley, utility easement or similar property, but not including a federal interstate highway;

21. "Small wireless facility" means a wireless facility that meets both of the following qualifications:

   a. each antenna of the wireless provider could fit within an enclosure of no more than six (6) cubic feet in volume, and

   b. all other wireless equipment associated with the wireless facility, whether ground or pole-mounted, is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated
ancillary equipment are not included in the
calculation of equipment volume: electric meter,
concealment elements, telecommunications demarcation
box, grounding equipment, power transfer switch, cut-
off switch and vertical cable runs for the connection
of power and other services;

22. "Substantial modification" means a proposed modification or
replacement to an existing wireless support structure or base
station which will substantially change the physical dimensions of
the wireless support structure or base station under the objective
standard for substantial change adopted by the Federal
Communications Commission pursuant to 47 C.F.R. Section 1.40001, or
a proposed modification of the equipment compound boundaries in
excess of the site dimensions specified in Section III.B of 47
C.F.R. Part 1, Appendix C;

23. "Technically feasible" means that by virtue of engineering
or spectrum usage the proposed placement for a small wireless
facility, or its design or site location can be implemented without
a reduction in the functionality of the small wireless facility;

24. "Utility pole" means a pole or similar structure that is or
may be used in whole or in part by or for wireline communications,
electric distribution, lighting, traffic control, signage or a
similar function, or for the collocation of small wireless
facilities; provided, however, such term shall not include wireless
support structures or electric transmission structures;

25. "Wireless facility" means equipment at a fixed location
that enables wireless communications between user equipment and a
communications network, including:

   a. equipment associated with wireless communications, and
   b. radio transceivers, antennas, coaxial or fiber-optic
cable, regular and backup power supplies, and
   comparable equipment, regardless of technological
   configuration. The term includes small wireless
   facilities,

   The term does not include:

   a. the structure or improvements on, under, or within
   which the equipment is collocated, or
   b. coaxial or fiber-optic cable that is between wireless
   structures or utility poles or that is otherwise not
   immediately adjacent to or directly associated with a
   particular antenna;

26. "Wireless infrastructure provider" means any person,
including a person authorized to provide telecommunications service
in the state, that builds or installs wireless communication
transmission equipment, wireless facilities or wireless support
structures, but that is not a wireless services provider;
27. "Wireless provider" means a wireless infrastructure provider or a wireless services provider;

28. "Wireless services" means any services, whether at a fixed location or mobile, provided to the public using wireless facilities;

29. "Wireless services provider" means a person who provides wireless services; and

30. "Wireless support structure" means a structure, such as a monopole, tower, either guyed or self-supporting, billboard, building or other existing or proposed structure designed to support or capable of supporting wireless facilities, other than a structure designed solely for the collocation of small wireless facilities. Such term shall not include a utility pole.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 36-504 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this section shall only apply to activities of a wireless provider within the rights-of-way to deploy small wireless facilities and associated utility poles.

B. An authority may not enter into an exclusive arrangement with any person for use of the rights-of-way for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance, or replacement of utility poles.
C. An authority may only charge a wireless provider a rate or fee for the use of the rights-of-way with respect to the collocation of small wireless facilities or the installation, maintenance, modification, operation or replacement of a utility pole in the right-of-way, if the authority charges other entities for use of the rights of way. Notwithstanding the foregoing, an authority is permitted, on a nondiscriminatory basis, to refrain from charging any rate to a wireless provider for the use of the right-of-way. The rate for use of the right-of-way is provided in Section 7 of this act.

D. Subject to the provisions of this section, a wireless provider shall have the right, as a permitted use not subject to zoning review or approval, to collocate small wireless facilities and install, maintain, modify, operate and replace utility poles along, across, upon, and under the rights of way. Such structures and facilities shall be so installed and maintained as not to obstruct or hinder the usual travel or public safety on such right-of-way or obstruct the legal use of such right-of-way by utilities.

E. Each new or modified utility pole installed in the right-of-way shall not exceed the greater of:

1. Ten (10) feet in height above the tallest existing utility pole in place as of the effective date of this act located within five hundred (500) feet of the new pole in the same right-of-way; or

2. Fifty (50) feet above ground level.
New small wireless facilities in the right-of-way may not extend more than ten (10) feet above an existing utility pole in place as of the effective date of this act or, for small wireless facilities on a new utility pole, above the height permitted for a new utility pole under this section. Subject to this section and Section 6 of this act, a wireless provider shall have the right to collocate a small wireless facility and install, maintain, modify, operate and replace a utility pole that exceeds these height limits along, across, upon and under the right-of-way, subject to applicable zoning regulations.

F. A wireless provider shall be permitted to replace decorative poles when necessary to collocate a small wireless facility, but any replacement pole shall reasonably conform to the design aesthetics of the decorative pole(s) being replaced.

G. Wireless providers shall comply with reasonable and nondiscriminatory requirements that prohibit communications service providers from installing structures in the right-of-way in an area designated solely for underground or buried cable and utility facilities where:

1. The authority has required all cable and utility facilities other than authority poles and attachments to be placed underground by a date certain that is three (3) months prior to the submission of the application;
2. The authority does not prohibit the replacement of authority poles in the designated area; and

3. The authority permits wireless providers to seek a waiver of the undergrounding requirements for the placement of a new utility pole to support small wireless facilities, which waivers shall be addressed in a nondiscriminatory manner.

H. Subject to subsection D of Section 5 of this act, this section, and except for facilities excluded from evaluation for effects on historic properties under 47 C.F.R. Section 1.1307(a)(4) of the FCC rules, an authority may require reasonable, technically feasible, non-discriminatory and technologically neutral design or concealment measures in a historic district. Any such design or concealment measures may not have the effect of prohibiting any provider's technology; nor may any such measures be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility.

I. The authority, in the exercise of its administration and regulation related to the management of the right-of-way, must be competitively neutral with regard to other users of the right-of-way, including that terms may not be unreasonable or discriminatory and may not violate any applicable law.

J. The authority may require a wireless provider to repair all damage to the right-of-way directly caused by the activities of the wireless provider in the right-of-way and to return the right-of-way
to its functional equivalence before the damage pursuant to the
competitively neutral, reasonable requirements and specifications of
the authority. If the wireless provider fails to make the repairs
required by the authority within a reasonable time after written
notice, the authority may affect those repairs and charge the
applicable party the reasonable, documented cost of such repairs.

K. New, modified or replacement utility poles associated with a
small wireless facility that meet the requirements of this section
are permitted uses subject to the permit process pursuant to
subsection D of Section 5 of this act.

SECTION 5. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 36-505 of Title 11, unless there
is created a duplication in numbering, reads as follows:

A. The provisions of this section shall apply to the permitting
of small wireless facilities by a wireless provider in or outside
the right-of-way as specified in subsection C of this section and to
the permitting of the installation, modification, and replacement of
utility poles by a wireless provider inside the right-of-way.

B. Except as provided in this section and Sections 4, 6, 7, 8
and 9 of this act, an authority may not prohibit, regulate, or
charge for the collocation of small wireless facilities.

C. Small wireless facilities shall be classified as permitted
uses and not subject to zoning review or approval if they are
collocated in the right-of-way in any zone or outside the right-of-
way in property not zoned exclusively for single family residential
use.

D. An authority may require an applicant to obtain one or more
permits to collocate a small wireless facility or install a new,
modified or replacement utility pole associated with a small
wireless facility as provided in Section 4 of this act, provided
such permits are of general applicability and do not apply
exclusively to wireless facilities. An authority shall receive
applications for, process and issue such permits subject to the
following requirements:

1. An authority may not directly or indirectly require an
applicant to perform services or provide goods unrelated to the
permit, such as in-kind contributions to the authority including
reserving fiber, conduit or pole space for the authority;

2. An applicant shall not be required to provide more
information to obtain a permit than communications service providers
that are not wireless providers, provided that an applicant may be
required to include construction and engineering drawings and
information demonstrating compliance with the criteria in paragraph
8 of this subsection;

3. An authority may not require the placement of small wireless
facilities on any specific utility pole or category of poles or
require multiple antenna systems on a single utility pole;
4. An authority may not limit the placement of small wireless facilities by minimum separation distances;

5. The authority may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless services provider within one (1) year after the permit issuance date, unless the authority and the applicant agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site;

6. Within ten (10) days of receiving an application, an authority must determine and notify the applicant in writing whether the application is complete. If an application is incomplete, an authority must specifically identify the missing information in writing. The processing deadline in paragraph 7 of this subsection is tolled from the time the authority sends the notice of incompleteness to the time the Applicant provides the missing information. That processing deadline also may be tolled by agreement of the applicant and the authority;

7. An application shall be processed on a nondiscriminatory basis and deemed approved if the authority fails to approve or deny the application within sixty (60) days of receipt of the application;

8. An authority may deny a proposed collocation of a small wireless facility or installation, modification or replacement of a
utility pole that meets the requirements in subsection E of Section 4 of this act only if the proposed application:

a. materially interferes with the safe operation of traffic control equipment,

b. materially interferes with sight lines or clear zones for transportation or pedestrians,

c. materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement,

d. fails to comply with reasonable and nondiscriminatory spacing requirements of general application adopted by ordinance that concern the location of ground-mounted equipment and new Utility Poles. Such spacing requirements shall not prevent a Wireless Provider from serving any location, or

e. fails to comply with applicable codes;

9. The authority shall document the basis for a denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant on or before the day the authority denies an application. The applicant may cure the deficiencies identified by the authority and resubmit the application within thirty (30) days of the denial without paying an additional application fee. The authority shall approve or deny the
revised application within thirty (30) days. Any subsequent review shall be limited to the deficiencies cited in the denial;

10. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority shall be allowed at the applicant's discretion to file a consolidated application and receive a single permit for the collocation of multiple small wireless facilities; provided, however, the denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same batch;

11. Installation or collocation for which a permit is granted pursuant to this section shall be completed within one year of after the permit issuance date unless the authority and the applicant agree to extend this period or a delay is caused by the lack of commercial power or communications facilities at the site. Approval of an application authorizes the applicant to:

a. undertake the installation or collocation, and

b. subject to applicable relocation requirements and the applicant's right to terminate at any time, operate and maintain the small wireless facilities and any associated utility pole covered by the permit for a period of not less than ten (10) years, which must be renewed for equivalent durations so long as they are
in compliance with the criteria set forth in paragraph 8 of this subsection.

12. An authority may not institute, either expressly or de facto, a moratorium on:

   a. filing, receiving, or processing applications, or
   b. issuing permits or other approvals, if any, for the collocation of small wireless facilities or the installation, modification, or replacement of utility poles to support small wireless facilities.

E. An authority shall not require an application for the following:

   1. Routine maintenance;
   2. The replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller; or
   3. For the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between existing utility poles, in compliance with the National Electrical Safety Code.

   An authority may, however, require a permit to work within the right-of-way for such activities, if applicable. Any such permits shall be subject to the requirements provided in subsections C and D of this section.
SECTION 6.  NEW LAW  A new section of law to be codified in the Oklahoma Statutes as Section 36-506 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. This section shall apply to the installation, modification or replacement of new wireless facilities, wireless support structures, utility poles and substantial modifications inside or outside the right-of-way that are subject to zoning review and approval and not a permitted use under subsection E of Section 4 of this act or subsection C of Section 5 of this act.

B. Within thirty (30) days of receiving an application under this section, an authority shall notify the applicant whether the application is complete, and if incomplete, the authority shall specifically identify the missing information.

An application under this section shall be processed on a nondiscriminatory basis and deemed approved if the authority fails to approve or deny the application within one hundred and fifty (150) days of receipt for a new wireless support structure application or within ninety (90) days of receipt for an application for the installation, modification or replacement of utility poles or wireless facilities described in subsection A of this section or for a substantial modification. The time period for approval may be tolled to accommodate timely requests for information required to complete the application or may be extended by mutual agreement between the applicant and authority.
A decision to deny an application pursuant to this section shall be in writing and supported by substantial evidence contained in a written record and publicly released contemporaneously. An authority must have a reasonable basis for a denial. An authority may not deny an application if such denial discriminates against the applicant with respect to the placement of the facilities of other wireless providers.

C. Application fees shall be subject to the requirements in Section 9 of this act.

D. An authority shall receive and process applications under this section subject to the following requirements:

1. An applicant's business decision on the type and location of wireless facilities, utility poles, wireless support structures, or technology to be used, is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities, utility poles, or wireless support structures. An authority may consider the height of such structures in its zoning review, provided that it may not unreasonably discriminate between the applicant and other communications service providers;

2. An authority shall not require an applicant to submit information about an applicant's business decisions with respect to the need for the utility pole, wireless support structure, or wireless facilities;
3. An authority shall not require an applicant to submit information about, or evaluate an applicant's business decisions with respect to its service, customer demand for service, or quality of service;

4. Any requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping must be reasonable;

5. Any setback or fall zone requirements must be substantially similar to such a requirement that is imposed on other types of commercial structures of a similar height;

6. An approval term of an application shall be without expiration, except that construction of the approved structure or facilities shall commence within two years of final approval, and be diligently pursued to completion;

7. An authority may not institute, either expressly or de facto, a moratorium on filing, receiving or processing applications, or issuing approvals for modifications or installations that are not a permitted use or for substantial modifications; and

8. An authority may require a wireless provider to repair all damage to the right-of-way directly caused by the activities of the wireless provider in the right-of-way and to return the right-of-way to its functional equivalence before the damage pursuant to the competitively neutral, reasonable requirements and specifications of the authority. If the wireless provider fails to make the repairs

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required by the authority within a reasonable time after written notice, the authority may affect those repairs and charge the applicable party the reasonable, documented cost of such repairs.

E. A collocation or replacement that is not a substantial modification shall be a permitted use and not subject to zoning review or approval.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 507 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. This section only applies to collocations on authority poles and authority wireless support structures that are located on authority property outside the right-of-way. Treatment of existing agreements for such collocations that do not comply with this section is addressed in Section 12 of this act.

B. An authority shall authorize the collocation of small wireless facilities on authority poles that do not exceed fifty (50) feet above ground level using the process under Section 5 of this act, charging only fees under subsection C of Section 9 of this act and reasonable and nondiscriminatory rates, and requiring reasonable and nondiscriminatory terms.

C. Subject to subsection D of this section, an authority shall authorize the collocation of small wireless facilities on authority wireless support structures and authority poles that exceed fifty (50) feet above ground level to the same extent, if any, that the
authority permits access to such structures for other commercial
projects or uses. Such collocations shall be subject to reasonable
and nondiscriminatory rates, fees and terms as provided in an
agreement between the authority, or its agent and the wireless
provider.

D. An authority may not enter into an exclusive agreement with
a wireless provider concerning authority poles that exceed fifty
(50) feet above ground level or authority wireless support
structures, including stadiums and enclosed arenas, unless the
agreement meets the following requirements:

1. The wireless provider provides service using a shared
network of wireless facilities that it makes available for access by
other wireless providers, on reasonable and nondiscriminatory rates
and terms that may include use of the entire shared network, as to
itself, an affiliate, or any other entity; or

2. The wireless provider allows other wireless providers to
collocate small wireless facilities on reasonable and
nondiscriminatory rates and terms, as to itself, an affiliate, or
any other entity.

E. When determining whether a rate, fee or term is reasonable
and nondiscriminatory for the purposes of this section,
consideration may be given to any relevant facts, including
alternative financial or service remuneration, characteristics of
the proposed equipment or installation, structural limitations or
other commercial or unique features or components.

SECTION 8. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 36-508 of Title 11, unless there
is created a duplication in numbering, reads as follows:

A. The provisions of this section shall apply to activities of
the wireless provider within the right-of-way.

B. A person owning, managing, or controlling authority poles in
the right-of-way may not enter into an exclusive arrangement with
any person for the right to attach to such poles. A person who
purchases or otherwise acquires an authority pole is subject to the
requirements of this section.

C. An authority shall allow the collocation of small wireless
facilities on authority poles using the process in Section 5 of this
act.

D. The rates to collocate on authority poles shall be
nondiscriminatory regardless of the services provided by the
collocating person. The rate to collocate on authority poles is
provided in Section 7 of this act.

E. The rates, fees, and terms and conditions for the make-ready
work to collocate on an authority pole shall be nondiscriminatory,
competitively neutral, and commercially reasonable and must comply
with this act.
The authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within sixty (60) days after receipt of a complete application. Make-ready work including any pole replacement shall be completed within sixty (60) days of written acceptance of the good faith estimate by the applicant. An authority may require replacement of the authority pole only if it demonstrates that the collocation would make the authority pole structurally unsound.

The person owning, managing, or controlling the authority pole shall not require more make-ready work than required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to pre-existing or prior damage or noncompliance. Fees for make-ready work including any pole replacement shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultants' fees or expenses.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 509 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. This section shall govern an authority's rates and fees for the placement of a wireless facility, wireless support structure or utility pole.
B. An authority may not require a wireless provider to pay any rates, fees, or compensation to the authority or other person other than what is expressly authorized by this act for the right to use or occupy a right-of-way, for collocation of small wireless facilities on utility poles in the right-of-way, or for the installation, maintenance, modification, operation and replacement of utility poles in the right-of-way.

C. Application fees shall be subject to the following requirements:

1. An authority may charge an application fee only if such fee is required for similar types of commercial development or construction within the authority's jurisdiction;

2. Where costs to be recovered by an application fee are already recovered by existing fees, rates, licenses or taxes paid by a wireless provider, no application fee shall be assessed;

3. An application fee may not include:
   a. travel expenses incurred by a third party in its review of an application, or
   b. direct payment or reimbursement of third-party rates or fees charged on a contingency basis or a result-based arrangement;

4. An application fee for a collocation shall be limited to the cost of granting a building permit for similar types of commercial development or construction within the authority's jurisdiction.
The application and permit fees for collocation of small wireless facilities on an existing or replacement authority pole shall not exceed One Hundred Dollars ($100.00) each for the first five (5) small wireless facilities on the same application and Fifty Dollars ($50.00) for each additional small wireless facility on the same application;

5. The application and permit fees for the installation, modification or replacement of a utility pole and the collocation of an associated small wireless facility that are permitted uses in accordance with the specifications in subsection D of Section 4 of this act shall not exceed Two Hundred Fifty Dollars ($250.00) per pole for access to the right-of-way; and

6. An application fee for the installation, modification or replacement of a new wireless support structure, a substantial modification, or a new utility pole associated with a small wireless facility that is not a permitted use in accordance with the specifications in subsection D of Section 4 of this act shall not exceed One Thousand Dollars ($1,000.00).

D. The rate for occupancy of the right-of-way shall not exceed Twenty Dollars ($20.00) per year per small wireless facility.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 36-510 of Title 11, unless there is created a duplication in numbering, reads as follows:
This section applies to activities in the right-of-way only. Nothing in this act shall be interpreted to allow any entity to provide services regulated under 47 U.S.C. Section 521 to 573, without compliance with all laws applicable to such providers. Nor shall this act be interpreted to impose any new requirements on cable providers for the provision of such service in this state.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 36-511 of Title 11, unless there is created a duplication in numbering, reads as follows:

Subject to the provisions of this act and applicable federal law, an authority may continue to exercise zoning, land use, planning and permitting authority within its territorial boundaries, including with respect to wireless support structures and utility poles; except that no authority shall have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any campus, stadium, or athletic facility not owned or controlled by the authority, other than to comply with applicable codes, and an authority shall evaluate the structure classification for wireless support structures under the latest version of ANSI/TIA-222.

Nothing in this act authorizes the state or any political subdivision, including an authority, to require wireless facility deployment or to regulate wireless services.
SECTION 12. NEW LAW  
A new section of law to be codified in the Oklahoma Statutes as Section 36-512 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. An authority may adopt an ordinance that makes available to wireless providers rates, fees, and other terms that comply with this act. Subject to subsections B, C and D of this section, in the absence of an ordinance that fully complies with this act and until such a compliant ordinance is adopted, if at all, wireless providers may install and operate small wireless facilities and utility poles under the requirements of this act. An authority and a wireless provider may enter into an agreement implementing this act, but an authority may not require a wireless provider to enter into such an agreement.

B. Agreements between an authority and a wireless provider for the deployment of small wireless facilities in the right-of-way under the terms of this act are public/private agreements. Such agreements and any ordinances implementing this act, are matters of legitimate and significant statewide concern.

C. An agreement or ordinance that does not fully comply with this act may apply only to small wireless facilities and utility poles that became operational or were installed before the effective date of this act. Such an agreement or ordinance may not be renewed, or extended, unless it is modified to fully comply with this act. An agreement or ordinance that applies to small wireless
facilities and utility poles that became operational or were constructed before the effective date of this act is invalid and unenforceable beginning one hundred eighty-one (181) days after the effective date of this act unless it fully complies with this act.

If an agreement or ordinance is invalid in accordance with this subsection, in the absence of an agreement or ordinance that fully complies with this act and until such a compliant agreement or ordinance is entered or adopted, small wireless facilities and utility poles that become operational or were constructed before the effective date of this act may remain installed and be operated under the requirements of this act.

D. An agreement or ordinance that applies to small wireless facilities and utility poles that become operational on or after the effective date of this act is invalid and unenforceable beginning on the effective date of this act unless it fully complies with this act. If an agreement or ordinance is invalid in accordance with this subsection, in the absence of an agreement or ordinance that fully complies with this act and until such a compliant agreement or ordinance is entered or adopted, small wireless facilities and utility poles may be installed and operated in the right-of-way or become operational under the requirements of this act.

SECTION 13. NEW LAW    A new section of law to be codified in the Oklahoma Statutes as Section 36-513 of Title 11, unless there is created a duplication in numbering, reads as follows:
The Corporation Commission, binding arbitration, or a court of competent jurisdiction shall have jurisdiction to determine all disputes arising under this act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on authority poles and non-authority poles, the person owning or controlling the pole shall allow the collocating person to collocate on its poles at annual rates of no more than Twenty Dollars ($20.00) with rates to be trued up upon final resolution of the dispute. Complaints shall be resolved no later than one hundred eighty (180) days after a complaint or petition is filed.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 36-514 of Title 11, unless there is created a duplication in numbering, reads as follows:

An authority may adopt indemnification, insurance and bonding requirements related to small wireless facility permits subject to the requirements of this section.

A. An authority shall not require a wireless provider to indemnify and hold the authority and its officers and employees harmless against any claims, lawsuits, judgments, costs, liens, losses, expenses or fees, except when a court of competent jurisdiction has found that the negligence of the wireless provider while installing, repairing, or maintaining caused the harm that created such claims, lawsuits, judgments, costs, liens, losses, expenses, or fees.
B. An authority may require a wireless provider to have in effect insurance coverage consistent with subsection A of this section, so long as the authority imposes similar requirements on other rights-of-way users and such requirements are reasonable and nondiscriminatory.

An authority may not require a wireless provider to obtain insurance naming the authority or its officers and employees an additional insured.

An authority may require a wireless provider to furnish proof of insurance, if required, prior to the effective date of any permit issued for a small wireless facility.

C. An authority may adopt bonding requirements for small wireless facilities if the authority imposes similar requirements in connection with permits issued for other rights-of-way users.

1. The purpose of such bonds shall be to:

   a. provide for the removal of abandoned or improperly maintained small wireless facilities, including those that an authority determines need to be removed to protect public health, safety, or welfare,

   b. restoration of the right-of-way in connection with removals under this paragraph, or

   c. recoup rates or fees that have not been paid by a wireless provider in over twelve (12) months, so long as the wireless provider has received reasonable
notice from the authority of any of the non-compliance listed above and an opportunity to cure.

2. Bonding requirements may not exceed Two Hundred Dollars ($200.00) per small wireless facility. For wireless providers with multiple small wireless facilities within the jurisdiction of a single authority, the total bond amount across all facilities may not exceed Ten Thousand Dollars ($10,000.00), which amount may be combined into one bond instrument.

SECTION 15. This act shall become effective November 1, 2018.