



Legislation Text

File #: 17-891, **Version:** 1

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Adopt the Resolution Urging the Governor to Veto Senate Bill 1451 (Small Cell Wireless Bill)

DEPARTMENT: Legal Department

SUBMITTED BY: Mike DiSanto, City Attorney

BOARD/COMMISSION REVIEW:

N/A

BACKGROUND:

Senate Bill (SB) 1451 was initially introduced by the urging of telecommunications service providers to limit municipalities' ability to regulate the location of small cell wireless facilities and the fees a municipality could charge for the use of its rights-of-way (ROWs).

While the City enthusiastically supports the goals of providing reliable cellular coverage throughout the community, the City has not supported SB 1451 because it limits home rule powers and municipal authority to regulate small cell facilities.

After its initial introduction, the service providers and a group representing municipalities began negotiations to lessen the strictness of the bill on municipalities. Although there was some movement on the part of the service providers, the bill still severely limits municipalities' ability to regulate their own ROWs.

For instance, SB 1451 permits the following: a private business entity to use public ROWs at a rate far below market value and install antennas as large as six (6) cubic feet in size, and associated equipment up to twenty-five (25) cubic feet in size, on existing or new utility poles subject to minimal zoning regulations by the municipality; and it creates an automatic approval timeline, which is one-sided and detrimental to the public when a permit is incomplete or inadequate.

SB 1451 preempts local home rule authority and the City of Chicago is exempt from its regulations.

The City, as well as many other municipalities and government coalitions, such as the DuPage Mayors and Managers Conference, have actively opposed SB 1451 since it was introduced in the previous legislative session. Mayor Chirico and Mayor Irvin of Aurora held a joint press conference with Mayors of Willowbrook, Addison, West Chicago, Warrenville, Oswego, Bolingbrook and North Aurora, and Chairmen of Dupage, Kane and Kendall county boards to oppose the bill. Mayor Chirico provided live testimony before the Public Utilities Committee of the Illinois House of Representatives in Springfield in opposition of SB 1451.

Despite those efforts, the House and the Senate recently voted to pass SB 1451. The bill was passed with the overwhelming support of Chicago representatives despite Chicago being exempt from the bill's regulations. Notably, the City of Naperville's state legislators, Illinois Representatives Grant Wehli, Jeanne Ives, and Stephanie Kifowit, and Illinois Senators Michael Connelly and Linda Holmes, opposed SB 1451 in both houses.

After that vote, Senate President John Cullerton filed a motion to reconsider the vote, putting a procedural hold on the bill. President Cullerton is reportedly working on a trailer bill to address last minute concerns raised by the cable industry. The motion to reconsider may be withdrawn at any time at which point the SB 1451 will go to the Governor to be signed into law.

DISCUSSION:

On November 16, 2017, the DuPage Mayors and Managers Conference contacted its membership, including the City of Naperville, and asked all municipalities to approve and sign a resolution urging Governor Rauner to veto SB 1451. DMMC plans to deliver all the municipal resolutions opposing SB 1451 to the Governor, Senate President Cullerton and Senate Republican Leader Brady respectively. The DMMC is also asking the other Illinois government coalitions that opposed SB 1451 to request that their members pass resolutions in opposition to SB 1451 and them to the DMMC for distribution.

FISCAL IMPACT:

SB 1451 places a cap on fees a municipality may charge for the use of its rights-of-way (ROWs). For instance, Naperville currently charges carriers approximately \$2,300 per year per site plus a one-time \$1,500 landscaping fee per site. SB 1451 limits the fee Naperville would be able to charge to \$200 resulting in a loss of approximately \$2,100 in fees per year, per site. Currently Naperville leases its ROW to approximately 12 small cell sites which will result in a loss of revenue of \$25,200 per year (plus landscaping fees). The detrimental impact will increase exponentially in the future as many new sites will be established concurrent with the carriers' roll out of 5G technology.