

FIRST REGULAR SESSION

SENATE BILL NO. 222

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHATZ.

Read 1st time January 12, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1151S.02I

AN ACT

To amend chapter 67, RSMo, by adding thereto one new section relating to infrastructure owned by a communication service provider.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.5130, to read as follows:

67.5130. 1. Notwithstanding any other provision of law to the contrary, unless otherwise agreed to by the political subdivision and the communication service provider, no political subdivision shall have the authority to require or necessitate the removal or relocation of infrastructure owned by a communication service provider which is lawfully located on private property, in the public right-of-way, or attached to a utility pole, unless such political subdivision agrees to pay the owner of the infrastructure reasonable costs incurred in order to comply with the political subdivision's request or retains a contractor to perform such work which has been used by the infrastructure owner within the past two years for such purpose and who is in good standing with the infrastructure owner. Within ten days of a written request by a political subdivision, the infrastructure owner shall provide a listing of all contractors in good standing used within the past two years for such purposes. The political subdivision shall not be required to put out to bid the selection of such contractor. Prior to a political subdivision retaining a contractor for such removal or relocation, such contractor shall coordinate with the infrastructure owner in regard to date, time, and manner in which the removal or relocation will occur. For purposes of this section, the designation of private property shall not change after the infrastructure is installed,

22 should a political subdivision acquire an interest in, or otherwise
23 obtain, such property. For purposes of this section, if any political
24 subdivision requests removal or relocation of infrastructure owned by
25 a communication service provider that has been put into service, and
26 the result of the request is that infrastructure being abandoned rather
27 than relocated, such removal or relocation shall not be
28 compensated. However, any necessary investment in infrastructure to
29 replace such abandoned infrastructure shall be considered a relocation
30 under this section.

31 **2. This section shall not apply:**

32 **(1) To the costs incurred to remove or relocate infrastructure**
33 **owned by a communication service provider which has been reasonably**
34 **determined by the political subdivision to pose a clear and present**
35 **danger to public health or safety due to the infrastructure being in a**
36 **state of disrepair; or**

37 **(2) If the requesting political subdivision and the infrastructure**
38 **owner have entered into a franchise agreement or a pole attachment**
39 **agreement governing the relocation of such infrastructure.**

40 **3. No political subdivision may raise the fee authorized by**
41 **section 67.1832 to collect revenue for the purpose of paying or**
42 **recovering relocation expenses paid to any communication service**
43 **provider under this section.**

44 **4. For the purposes of this section, the following terms shall**
45 **mean:**

46 **(1) "Communication service provider", a wireless service**
47 **provider, broadband or other internet protocol enabled service**
48 **provider, video service provider, telecommunications company or other**
49 **communications-related service provider;**

50 **(2) "Reasonable costs", in regard to removal or relocation of**
51 **infrastructure located:**

52 **(a) On private property, or attached to a utility pole, means all**
53 **actual costs prudently incurred to comply with the political**
54 **subdivisions request; or**

55 **(b) In the public right-of-way, means:**

56 **a. All actual costs prudently incurred to comply with the**
57 **political subdivision's request for the first three years after the permit**
58 **was issued or authorization obtained allowing the placement of such**

59 infrastructure in its current location; or

60 b. Fifty percent of all actual costs prudently incurred to comply
61 with the political subdivision's request between the fourth and seventh
62 year following the issuance of the permit or authorization allowing the
63 placement of such infrastructure in its current location; or

64 c. No recovery is allowed for costs prudently incurred to comply
65 with the political subdivision's request after the seventh year following
66 the issuance of the permit or authorization allowing the placement of
67 such infrastructure in its current location, unless the political
68 subdivision's request is due to a development or redevelopment of an
69 area for economic development reasons or the reason for the political
70 subdivision's request is not completed with twenty-four months of the
71 request. If the political subdivision's request is due to a development
72 or redevelopment of an area for economic development reasons, the
73 communication service provider shall be entitled to fifty percent of all
74 actual costs prudently incurred to comply with the political
75 subdivision's request. If in response to a political subdivision's request,
76 the communication service provider relocates its infrastructure and the
77 relocation is not completed with twenty-four months of the request, the
78 communication service provider shall be entitled to fifty percent of all
79 actual costs prudently incurred to comply with the political
80 subdivision's request;

81 (3) "Wireless service provider", a provider of commercial mobile
82 service pursuant to Section 332(d) of the Federal Telecommunications
83 Act of 1996 (47 U.S.C. Section 151 et seq.).

84 5. The provisions of this section shall only apply to
85 infrastructure installed on or after August 28, 2015.

✓