



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** April 4, 2019

Staff Contact: Adriana Fralick, Deputy City Manager

Agenda Title: For Possible Action: Discussion and possible action on Assembly Bill (AB) 344 of the 80th (2019) Session of the Nevada Legislature, a bill that prohibits a political subdivision from discriminating against or preventing certain uses of a telecommunication system or cable television system and requiring a political subdivision to allow installation, maintenance, operation and replacement of micro wireless facilities. (Adriana Fralick, afralick@carson.org)

Staff Summary: During this legislative session of the Nevada Legislature, City staff will bring to meetings of the Board of Supervisors legislative bills as requested by the Board for review or those that Staff believes will impact Carson City. AB 344 makes various changes to modernize the provision of cellular coverage.

Agenda Action: Formal Action / Motion **Time Requested:** 5 mins

Proposed Motion

I move to (support, oppose, remain neutral on) AB 344.

Board's Strategic Goal

Efficient Government

Previous Action

None

Background/Issues & Analysis

Legislative Counsel's Digest:

Section 7 of this bill prohibits a political subdivision of this State from discriminating against or preventing certain uses of a telecommunication system or cable television system in the public rights-of-way by a telecommunication provider or a wireless infrastructure provider if the provider complies with applicable federal and state requirements. Section 8 of this bill requires a political subdivision of this State to allow a telecommunication provider or a wireless infrastructure provider, or an affiliate thereof, to install, place, maintain, operate or replace micro wireless facilities on certain cables owned by the provider or affiliate under the provisions of a franchise which was granted to the provider or affiliate, as applicable. Section 9 of this bill provides that the provisions of this bill do not otherwise: (1) limit the authority of a political subdivision of this State to license telecommunication providers and establish certain conditions on such licenses; or (2) affect the authority of a political subdivision to manage the public rights-of-way or exercise its police powers and land use powers.

<https://www.naco.org/articles/fcc-curtails-local-authority-vote-speed-5g-deployment>

<https://docs.fcc.gov/public/attachments/DOC-353962A1.pdf>

Applicable Statute, Code, Policy, Rule or Regulation

NRS Chapter 707

Financial Information

Is there a fiscal impact? No

If yes, account name/number:

Is it currently budgeted?

Explanation of Fiscal Impact:

Alternatives

Take a position to support, oppose or remain neutral; not take a position; Mayor remand back to staff with instructions based on discussion on the record.

Attachments:

[AB 344.pdf](#)

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

ASSEMBLY BILL NO. 344—ASSEMBLYWOMAN CARLTON

MARCH 18, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Makes various changes to modernize the provision of cellular coverage. (BDR 58-838)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to utilities; prohibiting a political subdivision of this State from discriminating against or preventing certain uses of a telecommunication system or cable television system under certain circumstances; requiring a political subdivision of this State to allow the installation, maintenance, operation and replacement of micro wireless facilities under certain circumstances; affirming the authority of political subdivisions of this State to exercise certain powers; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 **Section 7** of this bill prohibits a political subdivision of this State from
- 2 discriminating against or preventing certain uses of a telecommunication system or
- 3 cable television system in the public rights-of-way by a telecommunication
- 4 provider or a wireless infrastructure provider if the provider complies with
- 5 applicable federal and state requirements.
- 6 **Section 8** of this bill requires a political subdivision of this State to allow a
- 7 telecommunication provider or a wireless infrastructure provider, or an affiliate
- 8 thereof, to install, place, maintain, operate or replace micro wireless facilities on
- 9 certain cables owned by the provider or affiliate under the provisions of a franchise
- 10 which was granted to the provider or affiliate, as applicable.
- 11 **Section 9** of this bill provides that the provisions of this bill do not otherwise:
- 12 (1) limit the authority of a political subdivision of this State to license
- 13 telecommunication providers and establish certain conditions on such licenses; or
- 14 (2) affect the authority of a political subdivision to manage the public rights-of-way
- 15 or exercise its police powers and land use powers.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 707 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 9, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 9, inclusive, of this act, unless*
5 *the context otherwise requires, the words and terms defined in*
6 *sections 3 to 6, inclusive, of this act have the meanings ascribed to*
7 *them in those sections.*

8 **Sec. 3.** *“Affiliate” means a person or entity that, directly or*
9 *indirectly through one or more intermediaries, owns, controls, is*
10 *owned or controlled by, or is under common ownership or control*
11 *with another person or entity.*

12 **Sec. 4.** *“Micro wireless facility” means a small wireless*
13 *facility that:*

14 1. *Is not larger in dimension than 36 inches in length, 22*
15 *inches in width and 12 inches in height; and*

16 2. *Does not have an exterior antenna which is longer than 11*
17 *1/2 inches.*

18 **Sec. 5.** *“Small wireless facility” means a wireless facility that*
19 *meets the following qualifications:*

20 1. *Each antenna is located inside an enclosure of not more*
21 *than 6 cubic feet in volume or, in the case of an antenna that has*
22 *exposed elements, the antenna and all of its exposed elements*
23 *could fit within an imaginary enclosure of not more than 6 cubic*
24 *feet; and*

25 2. *All other wireless equipment associated with the facility*
26 *has a cumulative volume of not more than 28 cubic feet or such*
27 *higher limit as is established by the Federal Communications*
28 *Commission.*

29 **Sec. 6.** *“Wireless infrastructure provider” means any person*
30 *who:*

31 1. *Is authorized to provide telecommunication service in this*
32 *State; or*

33 2. *Builds or installs:*

34 (a) *Transmission equipment;*

35 (b) *Wireless facilities; or*

36 (c) *Micro wireless facilities or structures.*

37 ↪ *The term does not include a provider of wireless services.*

38 **Sec. 7.** *A political subdivision of this State may not:*

39 1. *Discriminate against a telecommunication provider or a*
40 *wireless infrastructure provider in the use of a telecommunication*
41 *system or cable television system; or*



1 2. Prevent a telecommunication provider or a wireless
2 infrastructure provider from using a telecommunication system or
3 cable television system,

4 ↳ in the public rights-of-way to provide services other than
5 telecommunication service if the telecommunication provider or
6 wireless infrastructure provider, as applicable, complies with
7 applicable federal and state requirements.

8 **Sec. 8. 1.** A political subdivision of this State shall allow a
9 telecommunication provider or a wireless infrastructure provider,
10 or an affiliate of such a provider, to install, place, maintain,
11 operate or replace one or more micro wireless facilities on cables
12 that are strung between utility poles and owned by the provider or
13 affiliate, as applicable, under the provisions of a franchise which
14 was granted to the provider or affiliate, as applicable, to provide
15 telecommunication service or cable television service.

16 2. The installation, placement, maintenance, operation or
17 replacement of a micro wireless facility which is allowed pursuant
18 to subsection 1 must be performed in compliance with the
19 National Electrical Safety Code.

20 **Sec. 9.** The provisions of sections 2 to 9, inclusive, of this act
21 do not:

22 1. Limit the authority of a political subdivision of this State
23 to:

- 24 (a) License telecommunication providers; or
25 (b) Establish conditions on those licenses that are:
26 (1) Competitively neutral and nondiscriminatory; and
27 (2) Consistent with federal and state law.

28 2. Affect the authority of a political subdivision of this State
29 to:

- 30 (a) Manage the public rights-of-way within its boundaries; or
31 (b) Exercise its police powers and land use powers.

