

SENATE BILL 164

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Michael Padilla

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO COMMUNICATIONS; AMENDING THE WIRELESS CONSUMER
ADVANCED INFRASTRUCTURE INVESTMENT ACT TO INCLUDE POLITICAL
SUBDIVISIONS AND STATE AGENCIES IN THE DEFINITION OF
"AUTHORITY"; CLARIFYING THE DEFINITION OF "RIGHT OF WAY".

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 63-9I-2 NMSA 1978 (being Laws 2018,
Chapter 17, Section 2 and Laws 2018, Chapter 69, Section 2) is

.229878.1AIC February 19, 2025 (8:53pm)

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amended to read:

"63-9I-2. DEFINITIONS.--As used in the Wireless Consumer Advanced Infrastructure Investment Act:

A. "antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals and that is used to provide wireless services;

B. "applicable codes" means uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization and enacted by the authority, including the local amendments to those codes enacted by the authority solely to address imminent threats of destruction of property or injury to persons, to the extent that those amendments are consistent with the Wireless Consumer Advanced Infrastructure Investment Act;

C. "applicant" means a wireless provider that submits an application;

D. "application" means a request submitted by an applicant to an authority for a permit to collocate one or more small wireless facilities or to approve the installation, modification or replacement of a utility pole or wireless support structure;

E. "authority" means a ~~[municipality or county]~~ political subdivision of the state or a state agency;

F. "authority utility pole" means a utility pole, owned or operated by an authority, in a right of way;

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G. "collocate" means to install, mount, maintain, modify, operate or replace one or more wireless facilities on, in or adjacent to a wireless support structure or utility pole;

H. "communications service" means cable service as defined in 47 U.S.C. Section 522(6), information service as defined in 47 U.S.C. Section 153(24), mobile service as defined in 47 U.S.C. Section 153(33), telecommunications service as defined in 47 U.S.C. Section 153(53) or wireless service other than mobile service;

I. "fee" means a one-time charge;

J. "law" includes federal, state or local law;

K. "permit" means the written permission of an authority for a wireless provider to install, mount, maintain, modify, operate or replace a utility pole or to collocate a small wireless facility on a utility pole or wireless support structure;

L. "person":

(1) means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization; and

(2) includes an authority;

M. "private easement" means an easement or other real property right given for the benefit of the grantee of the easement and the grantee's successors and assigns;

N. "rate" means a recurring charge;

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O. "right of way":

(1) means the area on, below or above a public roadway, highway, street, sidewalk, alley or utility easement; and

(2) does not include the area on, below or above:

~~[(a) a federal interstate highway;~~

~~(b) a state highway or route under the jurisdiction of the department of transportation]~~

(a) a federal or state highway, road or patrol yard, including patrol yards owned, controlled or maintained by the department of transportation. The terms "road" or "highway" include a travel lane, roadside area, shoulder, median, ditch, culvert, ramp, turnout and construction or maintenance easement;

~~[(e)]~~ (b) a private easement; or

~~[(d)]~~ (c) a utility easement that does not authorize the deployment sought by a wireless provider;

P. "small wireless facility" means a wireless facility whose:

(1) antennas are, or could fit, inside an enclosure with a volume of six or fewer cubic feet; and

(2) other ground- or pole-mounted wireless equipment, not including the following, is twenty-eight or fewer cubic feet in volume:

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(a) electric meter;
(b) concealment elements;
(c) telecommunications demarcation box;
(d) grounding equipment;
(e) power transfer switch;
(f) cutoff switch;
(g) vertical cable runs for the
connection of power and other services; and

(h) elements required by an authority in
accordance with Subsection H of Section [~~3 of the Wireless
Consumer Advanced Infrastructure Investment Act~~] 63-9I-3 NMSA
1978;

Q. "utility pole":

(1) means a pole or similar structure used in
whole or in part for communications services, electricity
distribution, lighting or traffic signals; and

(2) does not include a wireless support
structure or electric transmission structure;

R. "wireless facility":

(1) 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,

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coaxial or fiber-optic cables, regular and backup power supplies and comparable equipment, regardless of technological configuration;

(2) includes a small wireless facility; and

(3) does not include:

(a) the structure or improvements on, under or within which the equipment is collocated;

(b) a wireline backhaul facility, coaxial cable or fiber-optic cable between wireless support structures or utility poles; or

(c) coaxial or fiber-optic cable otherwise not immediately adjacent to, or directly associated with, an antenna;

S. "wireless infrastructure provider" means a person, other than a wireless services provider, that may provide telecommunications service in New Mexico and that builds or installs wireless communications transmission equipment, wireless facilities' utility poles or wireless support structures;

T. "wireless provider" means a wireless infrastructure provider or wireless services provider;

U. "wireless services" means services provided to the public that use licensed or unlicensed spectrum, either mobile or at a fixed location, through wireless facilities;

V. "wireless services provider" means a person that

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provides wireless services;

W. "wireless support structure" means a freestanding structure, including a monopole or guyed or self-supporting tower, but not including a utility pole; and

X. "wireline backhaul facility" means a facility used to transport services by wire from a wireless facility to a network."

STBTC→SECTION 2. Section 63-9I-8 NMSA 1978 (being Laws 2018, Chapter 17, Section 8 and Laws 2018, Chapter 69, Section 8) is amended to read:

"63-9I-8. SCOPE OF [L~~OGAL~~] AUTHORITY.--

A. Except as otherwise provided in the Wireless Consumer Advanced Infrastructure Investment Act, an authority may exercise its zoning, land use, planning and permitting authority and its police power for the installation, modification and replacement of wireless support structures and utility poles.

B. An authority's power to control the design, engineering, construction, installation or operation of a small wireless facility in an interior structure or on the site of a campus, stadium or athletic facility not owned or controlled by the authority is limited to its authority to enforce compliance with applicable codes.

C. The Wireless Consumer Advanced Infrastructure Investment Act does not authorize the state or a political

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subdivision of the state to require small wireless facility deployment or to regulate wireless services.

D. If an authority determines that a utility pole or the wireless support structure of a wireless provider must be relocated to accommodate a public project, the provider shall assume the costs of relocating the wireless facilities deployed on the pole or structure.

E. Nothing in the Wireless Consumer Advanced Infrastructure Investment Act shall limit the authority of the commissioner of public lands to set rates, terms and conditions for the use of lands within the custody and control of the commissioner of public lands."←STBTC