



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBaal, Deputy County Attorney
Kate Pingolt Cotner, Assistant County Attorney

MEMORANDUM

TO: Board of County Commissioners

FROM: Dylan Reingold, County Attorney

DATE: May 30, 2017

SUBJECT: Right of Way Ordinance

BACKGROUND.

During the 2017 Florida Legislative Session, the Florida Legislature enacted the Advanced Wireless Infrastructure Deployment Act, House Bill 687 (the "Act"). Although the Governor has not signed the Act, the Act, if it becomes law, will become effective July 1, 2017.

Under the Act, local governments will have limited ability to prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way. The Act includes onerous permitting requirements on local governments, including accelerated permitting timeframes, prohibition of permitting fees for those noncharter counties, such as Indian River County, already charging the local communications services tax at a rate of 0.24 percent, and allowing applicants to combine 30 small wireless facilities into one application. The Act limits the collocation fee for a small wireless facility on a local government utility pole to no more than \$150 per year.

The Act does allow local governments to adopt by ordinance provisions for insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, liability, or warranties. In order to attempt to somewhat limit the impact on the Act on Indian River County, the County Attorney's Office and County staff have proposed the attached right-of-way ordinance which includes provisions authorized under the Act. The proposed ordinance establishes provisions for collocations of small wireless facilities on County utility poles in the rights-of-way relating to insurance, annual fees, security funds and abandonment.

FUNDING.

The cost of publication of a required public notice for a public hearing with respect to a proposed ordinance change would be approximately \$150.00. This cost would be funded from the County Attorney's Office budget within the General Fund (account number 00110214-033190). Any collocation fees obtained will be deposited into General Fund/Other Misc. Revenues (account number 001038-369900).

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RECOMMENDATION.

The County Attorney's Office recommends that the Chair allow for public comment on this matter and then have the Board vote to authorize the County Attorney's Office to finalize the proposed right-of-way ordinance and set a public hearing for the June 20th Board meeting.

ATTACHMENT(S).

Proposed Right of Way Ordinance