

REFERENCE TITLE: wireless providers; structures; repeal

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2269

Introduced by
Representative Dalessandro

AN ACT

AMENDING SECTION 9-506, ARIZONA REVISED STATUTES; REPEALING TITLE 9, CHAPTER 5, ARTICLE 8, ARIZONA REVISED STATUTES; AMENDING SECTIONS 9-1413 AND 9-1442, ARIZONA REVISED STATUTES; REPEALING TITLE 11, CHAPTER 13, ARIZONA REVISED STATUTES; AMENDING SECTIONS 11-1913 AND 11-1942, ARIZONA REVISED STATUTES; RELATING TO WIRELESS STRUCTURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-506, Arizona Revised Statutes, is amended to
3 read:

4 9-506. Authority to issue license; limitations; permits for
5 Wi-Fi radio equipment; definitions

6 A. For the purpose of authorizing and regulating the construction,
7 operation and maintenance of cable television systems, the licensing
8 authority of a city, including a charter city, or town for an incorporated
9 area, or the licensing authority of the county for unincorporated areas,
10 either individually or jointly by intergovernmental contract, may issue a
11 license to any person to use public streets, roads and alleys and shall
12 impose conditions, restrictions and limitations on the use of public
13 streets, roads and alleys and on the construction, operation and
14 maintenance of cable television systems.

15 B. Subject to the limitations of this section, a licensing
16 authority may adopt resolutions or ordinances implementing and controlling
17 the license or joint license, issue a license containing other terms and
18 conditions and impose a license fee on gross revenues. In addition to the
19 limitations of this section, the license is subject to the limits
20 established by the communications act of 1934, as amended (47 United
21 States Code sections 151 through 615b) and the federal communications
22 commission.

23 C. Other than the license fee on gross revenues authorized by this
24 article and transaction privilege taxes as provided in this subsection, a
25 licensing authority may not levy a tax, rent, fee or charge, however
26 denominated, on a cable operator for the use of the public streets, roads
27 or alleys to provide cable service or levy a tax, fee or charge on the
28 privilege of engaging in the business of providing cable service in the
29 area of jurisdiction. Taxes, rents, fees and charges include all:

30 1. Access channel support except for in-kind services or payments
31 as provided in subsection D of this section.

32 2. Rental, application, construction, permit, inspection,
33 inconvenience and other fees and charges related to a cable operator's use
34 of the public streets, roads and alleys, including the use authorized by
35 subsection I of this section. This subsection does not prohibit a
36 licensing authority from levying fees and charges on a cable operator or
37 its affiliates for microcell equipment pursuant to section 9-584 ~~or for~~
38 ~~small wireless facilities pursuant to article 8 of this chapter or title~~
39 ~~11, chapter 13, article 1 without an offset for license fees.~~ In
40 addition, the following apply:

41 (a) Any transaction privilege taxes otherwise authorized by law to
42 be levied on the business of providing cable service or in relation to use
43 of the public streets, roads or alleys to provide cable service may be
44 levied on a cable operator if the taxes are levied only on gross revenues
45 and the rate of the taxes is subject to subdivision (c) of this paragraph.

1 This subsection does not authorize ~~the imposition of~~ IMPOSING transaction
2 privilege taxes on interstate telecommunications services.

3 (b) The license fee and any transaction privilege taxes levied on
4 gross revenues constitute a franchise fee within the meaning of 47 United
5 States Code section 542(g)(1).

6 (c) Under no circumstances may the total of the rates of the
7 license fee and of any transaction privilege taxes on gross revenues
8 levied or assessed by a licensing authority for the privilege of providing
9 cable service and related use of the public streets, roads or alleys to
10 provide cable service exceed a rate of five percent, except during the
11 transition period for certain licenses as provided in subsection H of this
12 section.

13 (d) A cable operator shall pass on to subscribers any reduction in
14 the amount of fees, taxes or other charges paid by a cable operator and
15 itemized to subscribers that results from the implementation of the
16 amendment to this section effective on September 21, 2006.

17 D. A licensing authority may not require a cable operator to
18 provide in-kind services, make in-kind payments or pay a fee in addition
19 to the monetary license fee levied or assessed as provided in this section
20 as part of or as a condition of issuing a license to provide cable
21 service, except that:

22 1. A licensing authority may require a cable operator to provide
23 channel capacity to transmit programming over which the cable operator
24 exercises no editorial control except as authorized by 47 United States
25 Code section 531(e). The channel capacity shall be limited to not more
26 than two channels of public, educational or governmental access
27 programming in the basic service tier of the cable television system and
28 not more than two channels of noncommercial governmental programming, at
29 least one of which may be programmed by the federal government, in the
30 digital programming tier of the cable television system. If channel
31 capacity is required, the programming shall be specified in the license
32 and the cable operator may require that the channels regularly display an
33 unobtrusive logo or other suitable identifier of the cable operator as set
34 forth in the license.

35 2. A licensing authority may require a cable operator to incur
36 costs and expenses to provide, maintain and operate facilities and
37 equipment of the cable television system, including facilities and
38 equipment for signal carriage, processing, reformatting and
39 interconnection:

40 (a) To connect the cable television system, as it may be relocated
41 from time to time, to transmit programming to and from existing locations
42 of public, educational or governmental access facilities and to allow
43 monitoring of access programming at the facilities.

1 (b) To transmit public, educational and governmental access
2 channels to subscribers with the same prevailing quality, functionality
3 and identification as other channels.

4 3. A licensing authority may require a cable operator to provide
5 the basic service tier of cable service at no monthly service charge to
6 offices and facilities of the licensing authority.

7 4. The value of any channel capacity provided pursuant to paragraph
8 1 of this subsection, the costs and expenses incurred pursuant to
9 paragraph 2 of this subsection and the value of basic service provided
10 pursuant to paragraph 3 of this subsection may not be offset against the
11 license fee levied or assessed under this section.

12 E. This section does not prohibit a cable operator from agreeing to
13 provide in-kind services or make in-kind payments in the area of
14 jurisdiction that are prohibited by subsection D of this section if the
15 agreement with the licensing authority is not part of, or entered into as
16 a condition of being issued, a new, renewed or amended license to provide
17 cable service. An agreement that requires in-kind cable service or
18 payments shall set forth the total annual fair market value of the in-kind
19 cable service and payments, which shall be less than or equal to and
20 offset against the license fee levied or assessed annually pursuant to
21 this section. The license shall authorize the cable operator to retain
22 license fees and taxes collected from its subscribers in the amount of
23 this offset. In-kind cable services and payments include any channel
24 capacity and all capital costs and charges for or in support of the use of
25 any channel capacity that the cable operator agrees to provide under this
26 subsection.

27 F. Notwithstanding subsection C of this section, a licensing
28 authority may require that a cable operator:

29 1. Bear reasonable costs that are associated with damage caused to
30 public streets, roads and alleys by construction, maintenance and
31 operation of its facilities in the public streets, roads and alleys and
32 that are imposed on a competitively neutral and nondiscriminatory basis in
33 relation to costs borne by telecommunications corporations under section
34 9-582, subsection C.

35 2. Pay fines, fees, charges or damages for breach of the terms and
36 conditions of the license.

37 G. This section does not affect the authority of a licensing
38 authority to manage the public streets, roads and alleys within its
39 boundaries or to exercise its police powers.

40 H. A license that is in effect on September 21, 2006, including one
41 that is later renewed or extended for a term that begins before July 1,
42 2007, is enforceable in accordance with its terms and conditions as of
43 July 1, 2007 and is not subject to the provisions of the amendment to this
44 section effective on September 21, 2006. If a license that is in effect
45 on September 21, 2006 is later extended or renewed for a term that begins

1 after June 30, 2007, the extended or renewed license is subject to the
2 provisions of the amendment to this section effective on September 21,
3 2006 and the amendment to this section effective on September 19, 2007,
4 effective on the first day of the renewal or extension term, unless the
5 term begins before January 1, 2008, in which case the limitation in
6 subsection C, paragraph 2, subdivision (c) of this section on the rates of
7 the license fee and of any transaction privilege taxes on gross revenues
8 is:

9 1. Five percent, if the gross effective rate is five percent or
10 less.

11 2. If the gross effective rate is more than five percent, five
12 percent plus the following percentage:

13 (a) In the first year of the extension or renewal term, the gross
14 effective rate minus five percent, multiplied by two-thirds.

15 (b) In the second year of the term, the gross effective rate minus
16 five percent, multiplied by one-third.

17 (c) In the third year of the term, and thereafter, zero percent.

18 I. On application, a licensing authority shall issue to a cable
19 operator or its affiliate a permit to attach allowed Wi-Fi radio equipment
20 to the cable television system in public streets, roads and alleys in the
21 area of jurisdiction. The permits shall allow installation, operation and
22 maintenance of the allowed Wi-Fi radio equipment. A licensing authority
23 may require that all of the allowed Wi-Fi radio equipment at a single
24 location fit within a fifteen-inch cube and be contained entirely within a
25 ground-mounted pedestal otherwise allowed by the license or be connected
26 directly to and mounted at the same height as one of the cable operator's
27 aerial horizontal conductors otherwise allowed by the license.

28 J. Subsection I of this section does not:

29 1. Affect any authority of a political subdivision, including an
30 agricultural improvement district or any other special taxing district,
31 the licensing authority or any other person controlling utility poles in
32 the public streets, roads and alleys to deny, limit, restrict or determine
33 the terms and conditions for the use of or attachment to the utility poles
34 or attachments to other poles of the political subdivision, licensing
35 authority or other person by a cable operator.

36 2. Prohibit a licensing authority from imposing competitively
37 neutral and nondiscriminatory requirements for a cable operator to
38 underground aerial facilities to which allowed Wi-Fi equipment is
39 attached.

40 3. Prohibit the imposition of a tax, rent, fee or charge on revenue
41 from services provided through allowed Wi-Fi radio equipment.

42 4. Affect the authority of a licensing authority to manage the
43 public streets, roads and alley within its boundaries or to exercise its
44 police powers including review and approval of an application before
45 issuing a permit.

1 K. For the purposes of this section:

2 1. "Affiliate" means a person that directly or indirectly, through
3 one or more intermediaries, controls, is controlled by or is under common
4 control with a cable operator.

5 2. "Allowed Wi-Fi radio equipment" means radio equipment that uses
6 only unlicensed radio spectrum and that enables wireless communication
7 with a communications network for unlicensed services such as Wi-Fi
8 service.

9 3. "Gross effective rate" means one hundred percent multiplied by
10 the fraction in which the numerator is the sum of all taxes, fees and
11 charges of the licensing authority that the cable operator itemized to
12 subscribers and paid to the licensing authority under the license for the
13 twelve calendar months immediately preceding September 21, 2006 and the
14 denominator is the cable operator's gross revenues for that period in the
15 area of jurisdiction.

16 Sec. 2. Repeal

17 Title 9, chapter 5, article 8, Arizona Revised Statutes, is
18 repealed.

19 Sec. 3. Section 9-1413, Arizona Revised Statutes, is amended to
20 read:

21 9-1413. Incumbent cable operator; procedure to continue
22 operating under local license

23 A. If an incumbent cable operator does not timely elect to
24 terminate a local license for a service area pursuant to section 9-1412,
25 subsection B, the person shall continue to operate the cable system as a
26 holdover cable operator within the service area defined in the local
27 license and shall comply with the local license for as long as it remains
28 in effect for the service area. The local license is not effective for
29 the service area from and after the date the local license expires by its
30 terms. The local government may not unilaterally renew or extend the term
31 of the local license for the service area. The local government and the
32 holdover cable operator shall comply with all of the following, which
33 shall continue to apply to the local license:

34 1. Chapter 5, article 1.1 of this title.

35 2. Section 9-584.

36 ~~3. Chapter 5, article 8 of this title.~~

37 ~~4. Title 11, chapter 13, article 1.~~

38 B. To operate within a service area from and after the date the
39 local license expires, the holdover cable operator must apply for and
40 obtain a uniform video service license in the same manner as any other
41 video service provider.

42 C. If a holdover cable operator is issued a uniform video service
43 license with a service area that includes the service area defined under
44 the local license while operating pursuant to the local license under

1 subsection A of this section, the uniform video service license does not
2 become effective until the local license expires.

3 D. A holdover cable operator that elects to apply for a uniform
4 video service license shall do so at least one month before the local
5 license expires.

6 Sec. 4. Section 9-1442, Arizona Revised Statutes, is amended to
7 read:

8 9-1442. Fees and charges; emergency alert; damage;
9 undergrounding; wireless facilities; definition

10 A. Except the license fee on gross revenue authorized by section
11 9-1443 and transaction privilege taxes as provided in subsection B of this
12 section, a local government may not levy a tax, rent, fee or charge,
13 however denominated, on a video service provider for the use of the
14 highways to provide video service or levy a tax, fee or charge on the
15 privilege of engaging in the business of providing video service in the
16 service area. Taxes, rents, fees and charges include all of the
17 following:

18 1. Access channel support except for in-kind services, goods or
19 payments as provided in subsection ~~C~~ D of this section.

20 2. Rental, application, construction, permit, inspection,
21 inconvenience and other fees and charges related to a video service
22 provider's use of the highways, including the use authorized by subsection
23 ~~H~~ H of this section except that a local government may impose on a video
24 service provider some or all of the fees and charges described in this
25 paragraph. A video service provider shall offset the fees and charges
26 imposed pursuant to this paragraph against the next license fee payment
27 made pursuant to section 9-1443.

28 B. Any transaction privilege taxes otherwise authorized by local
29 law to be levied on the business of providing video service or in relation
30 to use of the highways to provide video service may be levied on a video
31 service provider if the taxes are levied only on gross revenue and the
32 rate of the taxes is subject to this subsection. This subsection does not
33 authorize ~~the imposition of~~ IMPOSING transaction privilege taxes on
34 interstate telecommunications service. The license fee and any
35 transaction privilege taxes levied on gross revenue constitute a franchise
36 fee within the meaning of the term in 47 United States Code section
37 542(g). The total of the rates of the license fee and of any transaction
38 privilege taxes on gross revenue levied or assessed by a local government
39 for the privilege of providing video service and related use of the
40 highways to provide video service may not exceed a rate of five percent.

41 C. Subsection A of this section does not prohibit a local
42 government from levying fees and charges on a video service provider or
43 its affiliates pursuant to section 9-584 ~~or pursuant to chapter 5, article~~
44 ~~8 of this title~~ without an offset against license fees.

1 D. A local government may not require a video service provider to
2 provide in-kind goods or services, make in-kind payments, assessments or
3 obligations or pay a fee in addition to the monetary license fee levied or
4 assessed as provided in section 9-1443, except for any of the following:

5 1. A local law may impose and enforce obligations equally and
6 uniformly on all video service providers that are operating within the
7 boundaries of a local government and on all holdover cable operators that
8 hold a local license that remains in effect under section 9-1414,
9 subsection A. Under the local law, a local government:

10 (a) May require all video service providers to provide channel
11 capacity for the video service provider to transmit programming over which
12 the video service provider exercises no editorial control except as
13 authorized by 47 United States Code section 531(e). The channel capacity
14 shall be limited to one of the following:

15 (i) Not more than two channels of public, educational or
16 governmental access programming in the basic service tier of the video
17 service network and not more than two channels of noncommercial
18 governmental programming, at least one of which may be programmed by the
19 federal government, in the digital programming tier of the video service
20 network.

21 (ii) Not more than two lines of access programming with each line
22 of programming carried on up to two standard definition channels and two
23 switched digital high-definition channels.

24 (b) Shall specify the programming and the video service provider
25 may require that the channels regularly display an unobtrusive logo or
26 other suitable identifier of the video service provider, if the local
27 government requires channel capacity pursuant to subdivision (a) of this
28 paragraph.

29 (c) May require all video service providers to incur costs and
30 expenses to provide, maintain and operate facilities and equipment of the
31 video service network, including facilities and equipment for signal
32 carriage, processing, reformatting and interconnection for all of the
33 following:

34 (i) To connect the video service network or cable system, as it may
35 be relocated from time to time, to transmit programming to and from
36 existing locations of public, educational or governmental access
37 facilities and to allow monitoring of access programming at the
38 facilities.

39 (ii) To transmit public, educational and governmental access
40 channels to subscribers with the same prevailing quality, functionality
41 and identification as other channels.

42 (d) May require all video service providers and incumbent cable
43 operators to provide at no initial or recurring charge the basic service
44 tier of video service to one outlet and one receiving device at each
45 building occupied by the local government if the building is not more than

1 two hundred feet from the nearest technically and commercially feasible
2 point of connection on the video service network.

3 2. A local government may retain nonreceiving equipment that it
4 owns without charge for the equipment's use and at the local government's
5 expense, including equipment previously provided by an incumbent cable
6 operator.

7 E. A local law may not impose any obligation on a video service
8 provider under subsection D of this section that is more burdensome than
9 the least burdensome requirement under any local license with a service
10 area within the boundaries of the local government that was in effect on
11 February 1, 2019.

12 F. None of the annual fair market value of any channel capacity
13 provided pursuant to subsection D, paragraph 1, subdivision (a), the
14 annual costs and expenses incurred pursuant to subsection D, paragraph 1,
15 subdivision (c) and the annual fair market value of basic service and line
16 extension provided pursuant to subsection D, paragraph 1, subdivision (d)
17 may be offset against the license fee levied or assessed under this
18 section.

19 G. Notwithstanding subsection A of this section, by a
20 nondiscriminatory local law that imposes and enforces the obligations
21 equally and uniformly on all video service providers operating within the
22 boundaries of a local government, a local government may require that a
23 video service provider bear all of the reasonable costs that are
24 associated with repair and restoration of damage caused to private
25 property or highways by the repair, replacement, installation,
26 construction, maintenance or operation of the video service provider's
27 facilities in the highways and that are imposed on a competitively neutral
28 and nondiscriminatory basis in relation to costs borne by
29 telecommunications corporations under section 9-582, subsection C.

30 H. On application, a local government shall issue to a video
31 service provider or its affiliate a permit to attach allowed Wi-Fi radio
32 equipment to the video service network in the highways within the
33 boundaries of the local government. The permit shall allow installation,
34 operation and maintenance of allowed Wi-Fi radio equipment. A local
35 government may require that all of the allowed Wi-Fi radio equipment at a
36 single location fit within a fifteen-inch cube and be contained entirely
37 within a ground-mounted pedestal or be connected directly to and mounted
38 at the same height as one of the video service provider's aerial
39 horizontal conductors. This subsection does not do any of the following:

40 1. Prohibit a local government from requiring a video service
41 provider to place underground aerial facilities to which allowed Wi-Fi
42 equipment is attached.

43 2. Prohibit the imposition of a tax, rent, fee or charge on revenue
44 from services provided through allowed Wi-Fi radio equipment.

1 B. To operate within a service area from and after the date the
2 local license expires, the holdover cable operator must apply for and
3 obtain a uniform video service license in the same manner as any other
4 video service provider.

5 C. If a holdover cable operator is issued a uniform video service
6 license with a service area that includes the service area defined under
7 the local license while operating pursuant to the local license under
8 subsection A of this section, the uniform video service license does not
9 become effective until the local license expires.

10 D. A holdover cable operator that elects to apply for a uniform
11 video service license shall do so at least one month before the local
12 license expires.

13 Sec. 7. Section 11-1942, Arizona Revised Statutes, is amended to
14 read:

15 11-1942. Fees and charges; emergency alert; damage;
16 undergrounding; wireless facilities; definition

17 A. Except the license fee on gross revenue authorized by section
18 11-1943 and excise taxes as provided in subsection B of this section, a
19 county may not levy a tax, rent, fee or charge, however denominated, on a
20 video service provider for the use of the highways to provide video
21 service or levy a tax, fee or charge on the privilege of engaging in the
22 business of providing video service in the service area. Taxes, rents,
23 fees and charges include all of the following:

24 1. Access channel support except for in-kind services, goods or
25 payments as provided in subsection ~~C~~ D of this section.

26 2. Rental, application, construction, permit, inspection,
27 inconvenience and other fees and charges related to a video service
28 provider's use or occupancy of the highways, including the use authorized
29 by subsection ~~H~~ H of this section except that a county may impose on a
30 video service provider some or all of the fees and charges described in
31 this paragraph. A video service provider shall offset the fees and
32 charges imposed pursuant to this paragraph against the next license fee
33 payment made pursuant to section 11-1943.

34 B. Any excise taxes otherwise authorized by local law to be levied
35 on the business of providing video service or in relation to use of the
36 highways to provide video service may be levied on a video service
37 provider if the taxes are levied only on gross revenue and the rate of the
38 taxes is subject to this subsection. This subsection does not authorize
39 the imposition of excise taxes on interstate telecommunications service.
40 The license fee and any excise taxes levied on gross revenue constitute a
41 franchise fee within the meaning of the term in 47 United States Code
42 section 542(g). The total of the rates of the license fee and of any
43 excise taxes on gross revenue levied or assessed by a county for the
44 privilege of providing video service and related use of the highways to
45 provide video service may not exceed a rate of five percent.

1 C. Subsection A of this section does not prohibit a county from
2 levying fees and charges on a video service provider or its affiliates
3 pursuant to section 9-584 ~~or chapter 13, article 1 of this title~~ without
4 an offset against license fees.

5 D. A county may not require a video service provider to provide
6 in-kind goods or services, make in-kind payments, assessments or
7 obligations or pay a fee in addition to the monetary license fee levied or
8 assessed as provided in section 11-1943, except for any of the following:

9 1. A local law may impose and enforce obligations equally and
10 uniformly on all video service providers that are operating within the
11 boundaries of a county and on all holdover cable operators that hold a
12 local license that remains in effect under section 11-1914, subsection A.
13 Under the local law, a county:

14 (a) May require all video service providers to provide channel
15 capacity for the video service provider to transmit programming over which
16 the video service provider exercises no editorial control except as
17 authorized by 47 United States Code section 531(e). The channel capacity
18 shall be limited to one of the following:

19 (i) Not more than two channels of public, educational or
20 governmental access programming in the basic service tier of the video
21 service network and not more than two channels of noncommercial
22 governmental programming, at least one of which may be programmed by the
23 federal government, in the digital programming tier of the video service
24 network.

25 (ii) Not more than two lines of access programming with each line
26 of programming carried on up to two standard definition channels and two
27 switched digital high-definition channels.

28 (b) Shall specify the programming and the video service provider
29 may require that the channels regularly display an unobtrusive logo or
30 other suitable identifier of the video service provider, if the county
31 requires channel capacity pursuant to subdivision (a) of this paragraph.

32 (c) May require all video service providers to incur costs and
33 expenses to provide, maintain and operate facilities and equipment of the
34 video service network, including facilities and equipment for signal
35 carriage, processing, reformatting and interconnection for all of the
36 following:

37 (i) To connect the video service network or cable system, as it may
38 be relocated from time to time, to transmit programming to and from
39 existing locations of public, educational or governmental access
40 facilities and to allow monitoring of access programming at the
41 facilities.

42 (ii) To transmit public, educational and governmental access
43 channels to subscribers with the same prevailing quality, functionality
44 and identification as other channels.

1 (d) May require all video service providers and incumbent cable
2 operators to provide at no initial or recurring charge the basic service
3 tier of video service to one outlet and one receiving device at each
4 building occupied by the county if the building is not more than two
5 hundred feet from the nearest technically and commercially feasible point
6 of connection on the video service network.

7 2. A county may retain nonreceiving equipment that it owns without
8 charge for the equipment's use and at the county's expense, including
9 equipment previously provided by an incumbent cable operator.

10 E. A local law may not impose any obligation on a video service
11 provider under subsection D of this section that is more burdensome than
12 the least burdensome requirement under any local license with a service
13 area within the boundaries of the county that was in effect on February 1,
14 2019.

15 F. None of the annual fair market value of any channel capacity
16 provided pursuant to subsection D, paragraph 1, subdivision (a), the
17 annual costs and expenses incurred pursuant to subsection D, paragraph 1,
18 subdivision (c) and the annual fair market value of basic service and line
19 extension provided pursuant to subsection D, paragraph 1, subdivision (d)
20 may be offset against the license fee levied or assessed under this
21 section.

22 G. Notwithstanding subsection A of this section, by a
23 nondiscriminatory local law that imposes and enforces the obligations
24 equally and uniformly on all video service providers operating within the
25 boundaries of a county, a county may require that a video service provider
26 bear all of the reasonable costs that are associated with repair and
27 restoration of damage caused to private property or highways by the
28 repair, replacement, installation, construction, maintenance or operation
29 of the video service provider's facilities in the highways and that are
30 imposed on a competitively neutral and nondiscriminatory basis in relation
31 to costs borne by telecommunications corporations under section 9-582,
32 subsection C.

33 H. On application, a county shall issue to a video service provider
34 or its affiliate a permit to attach allowed Wi-Fi radio equipment to the
35 video service network in the highways within the boundaries of the county.
36 The permit shall allow installation, operation and maintenance of allowed
37 Wi-Fi radio equipment. A county may require that all of the allowed Wi-Fi
38 radio equipment at a single location fit within a fifteen-inch cube and be
39 contained entirely within a ground-mounted pedestal or be connected
40 directly to and mounted at the same height as one of the video service
41 provider's aerial horizontal conductors. This subsection does not do any
42 of the following:

43 1. Prohibit a county from requiring a video service provider to
44 place underground aerial facilities to which allowed Wi-Fi equipment is
45 attached.

- 1 2. Prohibit the imposition of a tax, rent, fee or charge on revenue
2 from services provided through allowed Wi-Fi radio equipment.
- 3 3. Affect the authority of a county to manage the highways within
4 its boundaries or to exercise its police powers, including review and
5 approval of an application before issuing a permit.
- 6 4. Affect any authority of a political subdivision, including an
7 agricultural improvement district or any other special taxing district,
8 the county or any other person controlling utility poles in the highways
9 to deny, limit, restrict or determine the terms and conditions for the use
10 of or attachment to the utility poles or attachments to other poles of the
11 political subdivision, county or other person by a video service provider.
- 12 I. This section does not prohibit a video service provider from
13 agreeing with a county to provide in-kind services or goods or make
14 in-kind payments in the service area that are otherwise prohibited by this
15 section if the agreement with the county is not entered into as a
16 condition of operating in the service area under a uniform video service
17 license issued pursuant to this chapter. The agreement may authorize the
18 video service provider to retain license fees and taxes collected from its
19 subscribers in the amount of any offset to license fees specified in the
20 agreement.
- 21 J. For the purposes of this section, "allowed Wi-Fi radio
22 equipment" means radio equipment that uses only unlicensed radio spectrum
23 and that enables wireless communication with a communications network for
24 unlicensed services such as Wi-Fi service.