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**HOUSE BILL 1440**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Boehnke, Sutherland, Chambers, Graham, Volz, Eslick, and Jacobsen

AN ACT Relating to bringing innovation and investment to Washington's economy by streamlining the requirements for deployment of small wireless facilities; and adding a new chapter to Title 80 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds and declares that:

(1) As a result of COVID-19, Washington state schools are largely operating on a distance learning model and many citizens are working remotely. Communications networks, including both wired and wireless, have done much work to meet these growing needs, but additional work is required to facilitate widespread deployment of next-generation wireless and broadband network facilities;

(2) Wireless and broadband products and services are a significant and continually growing part of the state's economy. Accordingly, encouraging the development of strong and robust wireless and broadband communications networks throughout the state is integral to the state's economic competitiveness;

(3) Rapid deployment of small wireless facilities will serve numerous important statewide goals and the public policy, including: Meeting growing consumer demand for wireless data; increasing competitive options for communications services available to the state's residents; promoting the ability of the state's citizens to communicate with other citizens and with their schools, state, and local governments; and promoting public safety;

(4) Small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, are deployed most effectively in the rights-of-way;

(5) To meet the key objectives of this chapter and federal law, wireless providers must have access to the rights-of-way and the ability to attach to infrastructure in the rights-of-way to densify their networks and provide next-generation wireless services;

(6) Rates and fees for the permitting and deployment of small wireless facilities in rights-of-way and on authority infrastructure, including poles, throughout the state, consistent with federal law, is reasonable and will encourage the development of robust next-generation wireless and broadband networks for the benefit of citizens throughout the state; and

(7) The procedures, rates, and fees in this chapter are consistent with federal law and are fair and reasonable when viewed from the perspective of the state's citizens and the state's interest in having robust, reliable, and technologically advanced wireless and broadband networks and reflect a balancing of the interests of the wireless providers deploying new facilities and the interests of authorities in recovering their costs of managing access to the rights-of-way and the attachment space provided on authority infrastructure in the rights-of-way.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Antenna" means an apparatus designed for the purpose of emitting radio frequency signals to be operated or operating from a fixed location pursuant to the federal communications commission authorization for the provision of wireless services.

(2) "Antenna equipment" means equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed location as the antenna, and when collocated on a structure. Antenna equipment does not include:

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

(b) Wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

(3) "Antenna facility" means an antenna and associated antenna equipment.

(4) "Applicable codes" means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization, or local amendments to those codes that are of general application, address public safety, and are consistent with this chapter.

(5) "Applicant" means any person who submits an application as or on behalf of a wireless provider.

(6) "Application" means a request submitted by an applicant to an authority for a permit to:

(a) Collocate small wireless facilities; or

(b) Install, modify, or replace a structure on which to collocate a small wireless facility, where required.

(7) "Authority" means the state or any agency, county, municipality, district, or subdivision thereof or any instrumentality of the same including, but not limited to, public utility districts, irrigation districts, and municipal electric utilities. "Authority" does not include state courts having jurisdiction over an authority.

(8) "Authority structure" means a structure, or conduit facility suitable for placing fiber required to provide backhaul to a small wireless facility, owned, managed, or operated by or on behalf of an authority.

(9) "Collocate" means either (a) mounting or installing an antenna facility on a preexisting structure; or (b) modifying a structure for the purpose of mounting or installing an antenna facility on that structure, or both.

(10) "Communications facility" means the set of equipment and network components, including wires, cables, and associated facilities used by a cable operator, as defined in 47 U.S.C. Sec. 522(5); a telecommunications carrier, as defined in 47 U.S.C. Sec. 153(51); a provider of information service, as defined in 47 U.S.C. Sec. 153(24); or a wireless services provider to provide communications services, including cable service, as defined in 47 U.S.C. Sec. 522(6), telecommunications service, as defined in 47 U.S.C. Sec. 153(53), or an information service, as defined in 47 U.S.C. Sec. 153(24) wireless service; or other one-way or two-way communications service.

(11) "Communications service provider" means a cable operator, as defined in 47 U.S.C. Sec. 522(5); a provider of information service, as defined in 47 U.S.C. Sec. 153(24); a telecommunications carrier, as defined in 47 U.S.C. Sec. 153(51); or a wireless provider.

(12) "Decorative pole" means an authority structure that is specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, lighting, specially designed informational or directional signage, or temporary holiday or special event attachments have been placed or are permitted to be placed according to nondiscriminatory authority rules or codes.

(13) "Facility" means an antenna facility or a structure that is used for the provision of wireless services.

(14) "Fee" means a one-time, nonrecurring charge.

(15) "Historic district" means a group of buildings, properties, or sites that are either: (a) Listed in the national register of historic places or formally determined eligible for listing by the keeper of the national register, in accordance with Section VI.D.1.a.i-v of the nationwide programmatic agreement codified at 47 C.F.R. Part 1, Appendix C, as it existed on the effective date of this section; or (b) a registered historic district by the state historic preservation officer as of the effective date of this section.

(16) "Law" includes applicable federal, state, or local law, statute, common law, code, rule, regulation, order, or ordinance.

(17) "Micro wireless facility" means a small wireless facility that meets the following qualifications: (a) Is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height; and (b) any exterior antenna is no longer than 11 inches.

(18) "Permit" means any and all authorizations, written or otherwise, required by an authority to perform an action or initiate, continue, or complete a project for the deployment of wireless services at a specified location.

(19) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

(20)(a) "Pole" means a type of similar structure in the rights-of-way that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, or for the collocation of small wireless facilities.

(b) "Pole" does not include wireless support structures or electric transmission structures.

(21) "Rate" means a recurring charge.

(22) "Rights-of-way" means the area on, below, or above a public utility easement, roadway, highway, street, sidewalk, alley, or similar property, but not including a federal interstate highway.

(23) "Small wireless facility" means a facility that meets each of the following conditions:

(a) The facilities: (i) Are mounted on structures 50 feet or less in height including the antennas; (ii) are mounted on structures no more than 10 percent taller than other adjacent structures; or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(b) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

(c) All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any preexisting associated equipment on the structure, is no more than 28 cubic feet in volume; and

(d) The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. Sec. 1.1307(b), as it existed on the effective date of this section.

(24) "Structure" means a wireless support structure or other building, whether or not it has an existing antenna facility, that is used or is to be used for the provision of wireless services.

(25) "Technically feasible" means that by virtue of engineering or spectrum usage the proposed placement for a small wireless facility, or its design, concealment measures, or site location can be implemented without a reduction in the functionality of the small wireless facility.

(26) "Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

(27) "Wireless provider" means a wireless infrastructure provider or a wireless services provider.

(28) "Wireless services" means any services using licensed or unlicensed spectrum, including the use of wi-fi, whether at a fixed location or mobile, provided to the public.

(29) "Wireless services provider" means a person who provides wireless services.

(30)(a) "Wireless support structure" means a structure, such as a: Monopole; tower, either guyed or self-supporting; billboard; building; or other existing or proposed structure designed to support or capable of supporting wireless facilities, other than a structure designed solely for the collocation of small wireless facilities.

(b) "Wireless support structure" does not include a pole.

NEW SECTION. **Sec.**  (1) This section applies to activities of a wireless provider within the rights-of-way to deploy small wireless facilities and associated poles.

(2) An authority may not enter into an exclusive arrangement with any person for use of the rights-of-way for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance, or replacement of poles for such collocation.

(3) Subject to this section, a wireless provider has the right, as a permitted use not subject to zoning review or approval, to collocate small wireless facilities and install, maintain, modify, operate, and replace poles along, across, upon, and under the rights-of-way. Such structures and facilities must be installed and maintained so as not to obstruct or hinder the usual travel or public safety on the rights-of-way or obstruct the legal use of the rights-of-way by utilities.

(4) Each new or modified pole installed in the rights-of-way for the purpose of collocation of small wireless facilities may not exceed the greater of: (a) 50 feet in height above ground level; or (b) ten percent taller than the tallest existing structure in place in the rights-of-way, as of the effective date of this section, located within 500 feet of the new structure in the same rights-of-way. A wireless provider has the right to collocate a small wireless facility and install, maintain, modify, operate, and replace a pole that exceeds these height limits along, across, upon, and under the rights-of-way, subject to this section and applicable zoning regulations.

(5) An authority may adopt standards in its code governing the deployment of small wireless facilities and associated poles in the rights-of-way, subject to the following conditions:

(a) The aesthetic requirements must be: (i) Reasonable, in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments; (ii) no more burdensome than those applied to other types of infrastructure deployments; and (iii) objective and published in advance.

(b) An authority may deny a permit for not complying with aesthetic requirements only if the authority has found that a denial does not create an effective prohibition of wireless services.

(c) Aesthetic requirements applicable to deployment on decorative poles and in historic districts must also comply with the following requirements:

(i) A wireless provider must be permitted to collocate on or replace decorative poles when necessary to deploy a small wireless facility. An authority may require the collocation or decorative pole replacement to reasonably conform to the design aesthetics of the original decorative pole or poles, provided that these requirements are technically feasible.

(ii) A wireless provider shall be permitted to collocate small wireless facilities or replace poles in historic districts. Consistent with this subsection, an authority may require design or concealment measures for small wireless facilities and associated poles in historic districts. Any such design or concealment measures may not be considered a part of the small wireless facility for purposes of the size parameters in the definition of small wireless facility. New poles must be permitted if collocation is not an option.

(iii) A wireless provider must be permitted to place a new pole, subject to the terms of this subsection, where to deny placement of the new pole would be an effective prohibition of service.

(6) A wireless provider must comply with undergrounding requirements where:

(a) The authority has required all electric and communications lines to be placed underground by three months prior to the submission of the application;

(b) Structures the authority allows to remain must be made available to wireless providers for the collocation of small wireless facilities, and may be replaced by a wireless provider to accommodate the collocation of small wireless facilities, in compliance with this chapter;

(c) A wireless provider may install a new pole in the designated area that otherwise complies with this section when it is not able to provide wireless services by collocating on a remaining pole or other structure; and

(d) For small wireless facilities installed before an authority adopts requirements that communications and electric lines be placed underground, an authority adopting such requirements must permit: (i) A wireless provider to maintain the small wireless facilities in place on any structure not required to be removed, subject to any applicable pole attachment agreement with the pole owner; or (ii) the wireless provider to replace an existing pole within 50 feet of the prior location.

(7) The authority may require a wireless provider to repair all damage to the rights-of-way directly caused by the activities of the wireless provider in the rights-of-way and to return the rights-of-way to its functional equivalence before the damage pursuant to the competitively neutral, reasonable requirements and specifications of the authority. If the wireless provider fails to make the repairs required by the authority within a reasonable time after written notice, the authority may make those repairs and charge the applicable party the reasonable, documented cost of such repairs.

(8) A wireless provider may not be required to replace or upgrade an existing pole or the electrical components supporting the pole except for reasons of structural necessity or compliance with applicable codes. A wireless provider may, with the permission of the pole owner, replace or modify existing poles, but any such replacement or modification must be consistent with the design aesthetics of the pole being modified or replaced.

(9) A wireless provider is required to notify the authority at least 30 days before its abandonment of a small wireless facility. Following receipt of such a notice, the authority shall direct the wireless provider to remove all or any portion of the small wireless facility that the authority determines would be in the best interest of the public safety and public welfare to remove. If the wireless provider fails to remove the abandoned facility within 90 days after such a notice, the authority may undertake to do so and recover the actual and reasonable expenses of doing so from the wireless provider or its successors or assigns.

NEW SECTION. **Sec.**  (1) This section applies to all permits required for the collocation of small wireless facilities and to the permitting of the installation, modification, and replacement of associated poles by a wireless provider.

(2) Except as provided in this chapter, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities or the installation, modification, or replacement of associated poles that may be permitted in this section.

(3) An authority may require an applicant to obtain one or more permits to collocate a small wireless facility or install a new, modified, or replacement pole associated with a small wireless facility as provided in section 3 of this act, provided that such permits are of general applicability and do not apply exclusively to wireless facilities. An authority must receive and process applications subject to the following requirements:

(a) An authority may not directly or indirectly require an applicant to perform services or provide goods unrelated to the permit, such as in-kind contributions to the authority including, but not limited to, reserving fiber, conduit, or pole space for the authority.

(b) An applicant may not be required to provide more information to obtain a permit than communications service providers that are not wireless providers are required to provide, provided that an applicant may be required to include construction and engineering drawings and information demonstrating compliance with the criteria in (h) of this subsection.

(c) An authority may not require the: (i) Collocation of small wireless facilities on any specific pole or category of poles; (ii) use of specific pole types or configurations when installing new or replacement poles; or (iii) underground placements of small wireless facilities that are designated in an application to be pole-mounted or ground-mounted.

(d) An authority may not limit the collocation of small wireless facilities by minimum horizontal separation distance requirements from existing small wireless facilities, poles, or other structures.

(e) The authority may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless services provider within one year after the permit issuance date, unless the authority and the applicant agree to extend this period or delay is caused by lack of commercial power, communications transport facilities to the site, or any other factors outside of the applicant's control.

(f) Within 10 days of receiving an application, an authority must determine and notify the applicant in writing whether the application is complete. If an application is incomplete, an authority must specifically identify the missing information in writing. The processing deadline in (g) of this subsection must restart at zero on the date the applicant provides the missing information to complete the application.

(g) An application must be processed on a nondiscriminatory basis. The authority shall approve or deny an application within (i) 60 days of receipt of an application for the collocation of a small wireless facility using an existing structure; and (ii) 90 days for an application to collocate a small wireless facility on a new structure. The processing deadline may be tolled by agreement of the applicant and the authority. An authority's approval of an application may not be conditioned in a way that limits the technology utilized for such a facility nor to limit the technology that may be utilized in the future.

(h) If an authority does not approve or deny an application within the processing time frames provided in (g) of this subsection, the application is deemed approved and, upon notice to the authority, the applicant may construct the facility applied for and is not required to receive any further authorization from the authority.

(i) An authority may deny a proposed collocation of a small wireless facility or installation, modification, or replacement of a pole that meets the requirements in section 3(6) of this act only if the proposed application:

(i) Materially interferes with the safe operation of traffic control equipment;

(ii) Materially interferes with sight lines or clear zones for transportation or pedestrians;

(iii) Materially interferes with compliance with the Americans with disabilities act or similar federal or state standards regarding pedestrian access or movement;

(iv) Fails to comply with reasonable and nondiscriminatory horizontal spacing requirements of general application adopted by ordinance that concern the location of ground-mounted equipment and new poles. Such spacing requirements may not prevent a wireless provider from serving any location;

(v) Designates the location of a new pole for the purpose of collocating a small wireless facility within seven feet in any direction of an electrical conductor, unless the wireless provider obtains the written consent of the power supplier that owns or manages the electrical conductor;

(vi) Fails to comply with applicable codes; or

(vii) Fails to comply with section 3 (4), (5), or (6) of this act.

(j) The authority must document the basis for a denial, including the specific code, rule, or statutory provisions on which the denial was based, and send the documentation to the applicant on or before the day the authority denies an application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days of the denial without paying an additional application fee. The authority shall approve or deny the revised application within 30 days of resubmission and limit its review to the deficiencies cited in the denial.

(k) An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may file a consolidated application for small wireless facilities and associated poles and receive a single permit for the collocation of multiple small wireless facilities and the placement of associated poles. However, the denial of one or more small wireless facilities in a consolidated application may not delay processing of any other small wireless facilities or poles in the same consolidated application. Batch applications must be collectively processed in accordance with the procedures in this section. A batch application that includes new pole deployments is subject to a 90-day time frame for approval.

(l) Installation or collocation for which a permit is granted pursuant to this section must be completed within one year after the permit issuance date unless the authority and the applicant agree to extend this period, or a delay is caused by the lack of commercial power or communications facilities at the site. Approval of an application authorizes the applicant to:

(i) Undertake the installation or collocation; and

(ii) Subject to applicable relocation requirements and the applicant's right to terminate at any time, operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of not less than 10 years, which must be renewed for equivalent durations so long as the facilities comply with the criteria set forth in (h) of this subsection.

(m) An authority may not institute, either expressly or de facto, a moratorium on (i) filing, receiving, or processing applications; or (ii) issuing permits or other required approvals, if any, for the collocation of small wireless facilities or the installation, modification, or replacement of associated poles.

(4) An authority may not require an application for: (a) Routine maintenance; (b) the replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller; or (c) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles, in compliance with the applicable codes. However, an authority may require a permit for work that requires excavation or closure of sidewalks or vehicular lanes within the rights-of-way for such activities. Such a permit must be issued to the applicant on a nondiscriminatory basis upon terms and conditions applied to any other person's activities in the rights-of-way that require excavation, closing of sidewalks, or vehicular lanes.

NEW SECTION. **Sec.**  (1) This section applies to activities of a wireless provider accessing authority poles to collocate small wireless facilities.

(2) A person owning, managing, or controlling authority structures in the rights-of-way may not enter into an exclusive arrangement with any person for the right to attach to such structures. A person who purchases or otherwise acquires an authority structure is subject to the requirements of this section.

(3) An authority shall allow the collocation of small wireless facilities on authority structures on nondiscriminatory terms and conditions using the standards in section 3(5) of this act and the process in section 4 of this act.

(4) The rate to collocate on authority structures is provided in section 6 of this act.

(5)(a) The rates, fees, and terms and conditions for the make-ready work to collocate on an authority structure must be nondiscriminatory, competitively neutral, and commercially reasonable and must comply with this chapter.

(b) The authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days of written acceptance of the good faith estimate by the applicant. An authority may require replacement of the authority pole only if it demonstrates that the collocation would make the authority pole structurally unsound.

(c) The person owning, managing, or controlling the authority structure may not require more make-ready work than required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, may not exceed either actual costs or the amount charged to other communications service providers for similar work and may not include any revenue or contingency-based consultant's fees or expenses of any kind.

NEW SECTION. **Sec.**  (1) This section governs an authority's rates and fees for use of an authority's structures and the placement of a small wireless facility or associated poles.

(2) An authority may not require a wireless provider to pay any rates, fees, or compensation to the authority or other person other than what is expressly authorized by this chapter for the right to use or occupy a rights-of-way, for collocation of small wireless facilities on or in structures in the rights-of-way, or for the installation, maintenance, modification, operation, and replacement of poles in the rights-of-way.

(3) The application fee for a permit may not collectively exceed the following:

(a) $500 for up to the first five small wireless facilities in the same application with an additional $100 for each small wireless facility beyond five in the same application.

(b) $1,000 for the installation, modification, or replacement of a pole together with the collocation of an associated small wireless facility in the rights-of-way.

(4) A wireless provider shall pay an authority compensation for use of the rights-of-way and collocation on authority structures in the rights-of-way an annual rate not to exceed $270 per small wireless facility. This rate, together with the one-time application fee, is the total compensation that the wireless provider is required to pay the authority for the deployment of each small wireless facility in the rights-of-way and any associated pole. In addition, an authority may not charge a rate for the wireline backhaul facilities, coaxial, or fiber optic cable associated with a small wireless facility.

NEW SECTION. **Sec.**  This section applies to activities in the rights-of-way only. Nothing in this chapter may be interpreted to allow any entity to provide services regulated under 47 U.S.C. Sec. 521 through 573, without compliance with all laws applicable to such providers. Nor may this chapter be interpreted to impose any new requirements on cable providers for the provision of such service.

NEW SECTION. **Sec.**  Subject to this chapter and applicable law, an authority may continue to exercise zoning, land use, planning, and permitting authority within its territorial boundaries with respect to wireless support structures and other structures, including the enforcement of applicable codes. An authority may not have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of a small wireless facility located in an interior structure or upon the site of a campus, stadium, or athletic facility not owned or controlled by the authority, other than to require compliance with applicable codes. Nothing in this chapter authorizes the state or any political subdivision, including an authority, to require wireless facility deployment or to regulate wireless services.

NEW SECTION. **Sec.**  This chapter does not apply to poles owned by an investor-owned utility, except as it concerns a wireless provider's access to the rights-of-way and permits for the collocation of small wireless facilities on such utility poles pursuant to a pole attachment agreement between the wireless provider and the investor-owned utility.

NEW SECTION. **Sec.**  (1) An authority may adopt an ordinance that makes available to wireless providers rates, fees, and other terms that comply with this chapter. Subject to the other provisions of this section, in the absence of an ordinance or agreement that fully complies with this chapter and until such a compliant ordinance is adopted, if at all, a wireless provider may install and operate small wireless facilities and associated poles under the requirements of this chapter. An authority may not require a wireless provider to enter into an agreement to implement this chapter, but such an agreement is permissible if voluntary and nondiscriminatory.

(2) Ordinances and agreements implementing this chapter are public/private arrangements and are matters of legitimate and significant statewide concern.

(3) An agreement or ordinance that does not fully comply with this chapter applies only to small wireless facilities and associated poles that were operational before the effective date of this section and are deemed invalid and unenforceable beginning on the 181st day after the effective date of this section unless amended to fully comply with this chapter. If an agreement or ordinance is invalid in accordance with this subsection, small wireless facilities and associated poles that became operational before the effective date of this section, pursuant to such an agreement or ordinance, may remain installed and be operated under the requirements of this chapter.

(4) An agreement or ordinance that applies to small wireless facilities and associated poles that become operational on or after the effective date of this section is invalid and unenforceable unless it fully complies with this chapter. In the absence of an ordinance or agreement that fully complies with this chapter, a wireless provider may install and operate small wireless facilities and associated poles in the rights-of-way under the requirements of this chapter.

NEW SECTION. **Sec.**  The utilities and transportation commission, binding arbitration, or any court or agency of competent jurisdiction, has jurisdiction to determine disputes arising under this chapter. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on authority structures, the person owning or controlling the pole must allow the collocating person to collocate on its poles at annual rates of no more than $270 for both collocation on authority structures and use of the rights-of-way with rates to be trued up upon final resolution of the dispute. Any disputes, wherever filed, must be pursued in accordance with accelerated docket or complaint procedures, where available.

NEW SECTION. **Sec.**  (1) An authority may adopt reasonable indemnification, insurance, and bonding requirements related to small wireless facility and associated pole permits subject to the requirements of this section and section 3(5) of this act.

(2) An authority may not require a wireless provider to indemnify and hold the authority and its officers and employees harmless against any claims, lawsuits, judgments, costs, liens, losses, expenses, or fees, except when a court of competent jurisdiction has found that the negligence of the wireless provider while installing, repairing, or maintaining caused the harm that created such claims, lawsuits, judgments, costs, liens, losses, expenses, or fees.

(3) An authority may require a wireless provider to have in effect insurance coverage consistent with subsection (2) of this section, as long as the authority imposes similar requirements on other rights-of-way users and these requirements are reasonable and nondiscriminatory.

(a) An authority may not require a wireless provider to obtain insurance naming the authority or its officers and employees an additional insured.

(b) An authority may require a wireless provider to furnish proof of insurance, if required, prior to the effective date of any permit issued for a small wireless facility.

(c) An authority may adopt bonding requirements for small wireless facilities if the authority imposes similar requirements in connection with permits issued for other rights-of-way users.

(d) The purpose of such bonds must be to:

(i) Provide for the removal of abandoned or improperly maintained small wireless facilities, including those that an authority determines need to be removed to protect public health, safety, or welfare;

(ii) Restore the rights-of-way in connection with removals as provided for in this chapter; or

(iii) Recoup rates or fees that have not been paid by a wireless provider in over 12 months, as long as the wireless provider has received reasonable notice from the authority of any of the noncompliance listed in this subsection and an opportunity to cure.

(4) Bonding requirements may not exceed $200 per small wireless facility. For wireless providers with multiple small wireless facilities within the jurisdiction of a single authority, the total bond amount across all facilities may not exceed $10,000, which amount may be combined into one bond instrument.

NEW SECTION. **Sec.**  This act may be known and cited as the small wireless facilities deployment act.

NEW SECTION. **Sec.**  Sections 1 through 13 of this act constitute a new chapter in Title 80 RCW.

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