

BACKGROUND

In 2018, the Tennessee General Assembly adopted legislation governing the deployment of small cells. After the passage of the Tennessee small cells law, the Federal Communications Commission (FCC) issued a federal order governing the deployment of small cells nationally.

Problem

Portions of the FCC order were challenged in court. As a result of the FCC order and subsequent modifications made to the order by a federal court, elements of Tennessee’s small cells law are inconsistent with provisions of federal law. The municipal authority to regulate the physical characteristics and placement of small cells as well as allowable fees needs to be updated.

Last year, TML pursued legislation which seeks to bring the provisions of the state’s law pertaining to a municipality’s authority to regulate small cells into alignment with the more expansive authority afforded under federal law.

Following conversations with cellphone providers and with the bill sponsors, the bill was deferred until 2022 with the understanding that the providers would meet with TML in an effort to reach an agreement.

Anticipated Benefits

1. Aligns state law with federal law, which allows local governments to regulate small cell providers differently than others operating in the right of way;
2. Conforms state law to FCC order by increasing allowable fees;
3. Conforms state law to federal law by reducing the size of small cells and equipment permitted; and
4. Conforms state law to federal law by reducing the maximum height of poles

REMEDY

Work with cellphone providers and with bill sponsors to amend the state law in a way that strengthens local positioning and ensures small cells are deployed in a manner consistent with federal law.

