

**FIFTY-THIRD LEGISLATURE
SECOND SESSION, 2018**

January 31, 2018

Mr. Speaker:

Your **LOCAL GOVERNMENT, ELECTIONS, LAND GRANTS &
CULTURAL AFFAIRS COMMITTEE**, to whom has been referred

HOUSE BILL 38

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 2, line 24, after "U.S.C.", insert "Section".
2. On page 4, line 21, strike "G" and insert in lieu thereof "H".
3. On page 7, lines 11 and 12, strike "or publicly, cooperatively or municipally owned utilities".
4. On page 7, lines 15 and 16, strike "including investor-owned, authority-owned or cooperatively owned entities,".
5. On page 8, between lines 2 and 3, insert the following new subsection:

"D. An authority may adjust the rate it charges for the use of a right of way, but no more often than once a year and by no more than an amount equal to one-half the annual change, if any, in the most recent consumer price index for all urban consumers for New Mexico, as published by the United States department of labor. An authority that adjusts that rate shall notify all wireless providers charged the pre-adjusted rate of the prospective adjustment and shall make the adjustment effective sixty days or more following that notice."
6. Reletter the succeeding subsections accordingly.
7. On page 9, line 23, after "in", insert "design districts or".
8. On page 10, line 1, after "of", insert "design districts or".
9. On page 10, line 3, strike the comma and insert in lieu thereof a colon and the following new paragraph:

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"(1) "design district" means an area zoned or otherwise designated by municipal ordinance and for which a municipality maintains and uniformly enforces unique design and aesthetic standards; and".

10. On page 10, line 4, before the opening quotation mark, insert the paragraph designation "(2)".

11. On page 10, line 5, strike the colon.

12. On page 10, line 6, strike the paragraph designation "(1)".

13. On page 10, line 7, strike the semicolon.

14. On page 10, line 8, strike the paragraph designation "(2)".

15. On page 10, between lines 15 and 16, insert the following new subsections:

"I. Without the authority's discretionary and written consent, which the authority shall give in a nondiscriminatory way, a wireless provider shall not install a new utility pole in a right of way adjacent to a street or thoroughfare that is:

(1) fifty feet wide or less; and

(2) adjacent to single-family residential lots or other multifamily residences or to undeveloped land designated for residential use by zoning or deed restrictions.

J. A wireless provider that installs a new utility pole or small wireless facility in a right of way as described in Subsection H of this section shall comply with applicable private deed restrictions and other private restrictions affecting the area."

16. Reletter the succeeding subsection accordingly.

17. On page 10, line 22, after the period, insert the following:

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"The authority may require the wireless provider to return the property to its pre-damage condition according to the authority's requirements and specifications."

18. On page 11, line 22, after the period, insert the following:

"An applicant shall not file with an authority more than one consolidated application in any five-business-day period."

19. On page 11, line 23, strike "that" and insert in lieu thereof "a consolidated".

20. On page 13, line 8, strike "G" and insert in lieu thereof "H".

21. On page 19, line 18, strike "G" and insert in lieu thereof "H".

22. On page 22, line 21, strike the second occurrence of "the" and insert in lieu thereof "a wireless provider's".

23. On page 22, line 23, after "for", insert "a wireless provider's".

24. On page 23, line 2, strike "applicable" and insert in lieu thereof "that the authority has previously applied".

25. On page 23, line 16, before "shall", insert "subject to Section 9 of that act,".

26. On page 26, between lines 11 and 12, insert the following new section:

"SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is September 1, 2018.".,

and thence referred to the **BUSINESS & INDUSTRY COMMITTEE.**

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Respectfully submitted,

Miguel P. Garcia, Chair

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 5 For 1 Against
Yes: 5
No: Garcia, MP
Excused: Gallegos, DY
Absent: None

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