

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1112**

Introduced by Clements, 2.

Read first time January 10, 2024

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to telecommunications; to provide duties and
- 2 restrictions for any local governing entity that issues permits for
- 3 placement of communications infrastructure on poles and towers as
- 4 prescribed; to define terms; and to provide for applicability.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) For purposes of this section:

2           (a) Applicant means any person who applies for a permit issued by a  
3 local governing entity;

4           (b) Application means any form, document, or information prescribed  
5 or required by a local governing entity in applying for a permit;

6           (c) Communications infrastructure means any physical or virtual  
7 facility, network, system, device, or component that enables the  
8 transmission, reception, or exchange of voice, data, video, or any other  
9 form of information by wire, radio, optical, or other electromagnetic  
10 means;

11           (d) Fee means any charge, fee, or assessment imposed by a local  
12 governing entity for processing, reviewing, and issuing a permit;

13           (e) Local governing entity means a county, city, or village or any  
14 board, commission, department, or other agency of such county, city, or  
15 village that has the authority to issue a permit;

16           (f) Permit means any approval, license, certificate, or other  
17 authorization required by a local governing entity for the construction,  
18 alteration, improvement, or repair of any communications infrastructure  
19 attached to or deployed on a pole or tower;

20           (g) Pole means any utility pole that is located within the  
21 jurisdiction of a local governing entity issuing a permit, that is owned  
22 or controlled by a public or private party, and that is located on public  
23 or private property. A pole does not include a pole owned or controlled  
24 by the local governing entity;

25           (h) Third-party reviewer means any person who is not an employee or  
26 agent of a local governing entity and who is contracted by a local  
27 governing entity to perform any function related to processing and  
28 reviewing an application before issuance of a permit; and

29           (i) Tower means any structure designed to support communications  
30 infrastructure facilities, including antennas, transmitters, receivers,  
31 and related equipment facilitating the transmission, reception, or

1 exchange of voice, data, video, or any other form of information through  
2 wire, radio, optical, or other electromagnetic means.

3 (2)(a) This section applies to any local governing entity that  
4 requires a permit for the placement of communications infrastructure on  
5 any pole or tower located within the local governing entity's  
6 jurisdiction.

7 (b) For a permit subject to this section, a local governing entity  
8 shall establish and publish on its website the following information:

9 (i) The application form;

10 (ii) The application and permit fees and the basis for calculating  
11 such fees;

12 (iii) The schedule for processing and reviewing an application and  
13 issuing a permit;

14 (iv) The information and documentation that is required as part of a  
15 completed application;

16 (v) The criteria and standards in determining the approval or denial  
17 of an application;

18 (vi) The process for appealing an application denial; and

19 (vii) A single point of contact at the local governing entity to  
20 answer any questions regarding the permit process.

21 (3) A local governing entity shall not:

22 (a) Charge any fee that exceeds the reasonable cost of issuing a  
23 permit under this section, except that the application fee shall not  
24 exceed one hundred dollars per application, and the permit fee shall not  
25 exceed two hundred fifty dollars for any permit;

26 (b) Allow a third-party reviewer to assess any charges to an  
27 applicant. The local governing entity shall pay the cost of any services  
28 performed by a third-party reviewer under contract with the local  
29 governing entity;

30 (c) Unreasonably deny access to any pole or tower for communications  
31 infrastructure that is not otherwise prohibited by state or federal law;

1       (d) Impose any discriminatory or preferential terms or conditions  
2 for any permit issued;

3       (e) Require an applicant to designate a final contractor who will  
4 complete a communications infrastructure project described in an  
5 application; or

6       (f) Impose a moratorium on the issuance of permits.

7       (4) A local governing entity shall:

8       (a) Within five business days after receiving an application,  
9 provide written notification to the applicant confirming such receipt,  
10 including whether the application is complete or incomplete. If the  
11 application is incomplete, the notification shall specify the information  
12 or documentation that is missing or deficient and provide the applicant  
13 ten business days to submit the required information or documentation;  
14 and

15       (b) Approve or deny a completed application within thirty days after  
16 receiving the application, or within forty days after receiving the  
17 application if the review period is extended pursuant to subdivision (a)  
18 of this subsection. The local governing entity shall notify the applicant  
19 in writing within five business days after deciding to approve or deny  
20 the application. If the application is denied, such notice shall include  
21 the reasons for denial and the process for appealing such denial. If the  
22 local governing entity fails to approve or deny an application within the  
23 timeframe prescribed in this subdivision, the application shall be deemed  
24 approved, and the local governing entity shall issue the permit.

25       (5) This section does not apply to the deployment of small wireless  
26 facilities on utility poles or towers as governed under the Small  
27 Wireless Facilities Deployment Act.