



# House of Representatives

General Assembly

**File No. 147**

January Session, 2019

House Bill No. 7152

*House of Representatives, March 26, 2019*

The Committee on Energy and Technology reported through REP. ARCONTI of the 109th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT ACCELERATING THE DEPLOYMENT OF 5G WIRELESS FACILITIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective July 1, 2019*) (a) As used in this section:
- 2 (1) "Council" means the Council on 5G Technology established in  
3 subsection (b) of this section;
- 4 (2) "Interested person" means a person, as defined in section 3-56a of  
5 the general statutes, who owns land in the state that is within a radius  
6 of five hundred feet of any portion of state real property that the  
7 council is reviewing pursuant to a request made pursuant to this  
8 section;
- 9 (3) "Personal wireless service facilities" has the same meaning as  
10 provided in 47 USC 332(c)(7), as amended from time to time;
- 11 (4) "Small wireless facilities" has the same meaning as provided in  
12 47 CFR 1.6002, as amended from time to time; and

13 (5) "State real properties" has the same meaning as provided in  
14 section 4-67g of the general statutes.

15 (b) There shall be a Council on 5G Technology. The council shall  
16 consist of the following members or their designees: (1) One employee  
17 of the office of the Governor, designated by the Governor; (2) the  
18 Secretary of the Office of Policy and Management; (3) the  
19 Commissioner of Administrative Services; (4) the Commissioner of  
20 Transportation; and (5) the Commissioner of Energy and  
21 Environmental Protection.

22 (c) The council shall adopt guidelines for (1) its operations; and (2)  
23 the determinations it makes pursuant to subsection (d) of this section,  
24 which shall include, but not be limited to, guidelines concerning the  
25 safe placement of personal wireless service facilities, the protection of  
26 open space land and extensions of time for a determination by the  
27 council.

28 (d) (1) The council shall accept and review requests from wireless  
29 carriers for the use of state real properties for the placement,  
30 construction, maintenance and operation of personal wireless service  
31 facilities and small wireless facilities made using the common form or  
32 forms developed pursuant to subsection (e) of this section. Any request  
33 for the use of state real property that is managed by the Department of  
34 Transportation shall conform to said department's policy regarding the  
35 installation of new utility facilities on any state or interstate highway,  
36 the American Association of State Highway and Transportation  
37 Official's Policy on the Accommodation of Utilities on Freeway Rights  
38 of Way and any regulations or policies adopted by the Federal  
39 Highway Administration.

40 (2) The council shall accept and review comments from any state  
41 agency affected by such request and any interested person. In  
42 evaluating such requests, the council shall perform due diligence for  
43 each state real property that is the subject of a request, which shall  
44 include, but not be limited to, the periodic consideration and  
45 assessment of product testing, public health and safety, implications

46 for state bonding and environmental concerns.

47 (3) After reviewing any comments submitted from a state agency  
48 and any interested person and conducting due diligence, the council  
49 shall determine, in accordance with any Federal Communications  
50 Commission regulations, rulings and orders, which lands, buildings,  
51 easements, public rights of way and real property owned by the state  
52 may be made available to wireless carriers for the placement,  
53 construction, maintenance and operation of personal wireless service  
54 facilities and small wireless facilities. In making such determination,  
55 the council shall give preference to requests that include the  
56 collocation of personal wireless service facilities or small wireless  
57 facilities from other wireless carriers. Such determinations shall be  
58 made within ninety days of a request by a majority vote of the council,  
59 except if the council has determined an extension of time is necessary,  
60 pursuant to the guidelines adopted pursuant to subsection (c) of this  
61 section.

62 (e) On or before November 1, 2019, the Office of Policy and  
63 Management, the Department of Energy and Environmental  
64 Protection, the Department of Administrative Services and the  
65 Department of Transportation shall jointly develop (1) one or more  
66 Telecommunication License Agreements that shall govern the  
67 placement of personal wireless service facilities and small wireless  
68 facilities on buildings, structures or any other property owned by the  
69 state, (2) a common form or set of forms for requests made pursuant to  
70 this section, and (3) a fee structure for requests made pursuant to this  
71 section.

72 (f) Any wireless carrier that submits a request or has submitted a  
73 request pursuant to this section shall submit to the council, at the time  
74 it submits its first request and every two years thereafter, such wireless  
75 carrier's master plan for personal wireless service facilities and small  
76 wireless facilities in the state.

77 (g) Nothing in this section shall be construed to supersede any  
78 existing rules and requirements that require the review and approval

79 of permits for proposed personal wireless service facilities that are  
80 subject to the jurisdiction of the Connecticut Siting Council and the  
81 Public Utilities Regulatory Authority.

82 Sec. 2. (NEW) (*Effective July 1, 2019*) The Office of Policy and  
83 Management, in consultation with the Public Utilities Regulatory  
84 Authority and the Connecticut Siting Council, shall work with  
85 municipalities to establish a process for siting small wireless facilities  
86 on municipal property and, with the permission of the property  
87 owner, private property where the use of utility or light poles is  
88 insufficient. For purposes of this section, "small wireless facilities" has  
89 the same meaning as provided in 47 CFR 1.6002, as amended from  
90 time to time.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2019</i>	New section
Sec. 2	<i>July 1, 2019</i>	New section

**ET**      *Joint Favorable*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

This bill establishes a Council on 5G Technology. The bill, which requires the council to adopt guidelines including a common application form for wireless carriers to request the placement of personal wireless service facilities on state-owned property, has no fiscal impact.

The council will accept and review the requests from wireless carriers to use state real properties to place, construct, maintain, and operate personal wireless service facilities and small wireless facilities and determine which state-owned properties may be made available to the wireless carriers for these facilities.

The bill also requires the Office of Policy and Management, in consultation with the Public Utilities Regulatory Authority and the Siting Council, to work with municipalities to establish a process for siting small wireless facilities on municipal property. This has no fiscal impact as the agencies have the expertise to handle the requirements outlined in the bill.

### **The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****HB 7152*****AN ACT ACCELERATING THE DEPLOYMENT OF 5G WIRELESS FACILITIES.*****SUMMARY**

This bill establishes a Council on 5G Technology and tasks it with (1) reviewing wireless carriers' requests to place personal wireless service facilities and small wireless facilities, as defined in federal law (see BACKGROUND), on state-owned real property and (2) determining which state-owned properties may be made available to the wireless carriers for these facilities.

Among other things, the bill requires the council to (1) adopt guidelines for safely placing personal wireless service facilities and protecting open space land and (2) perform due diligence and review comments from any entities that own property within a 500-foot radius of any state-owned real property under the council's review.

The bill requires the Office of Policy and Management (OPM) to jointly develop, with certain other state agencies, licensing agreements, forms, and fee structures for placing the wireless facilities on state-owned property. The bill also specifies that it does not supersede existing rules and requirements requiring the review and approval of permits for proposed personal wireless service facilities under the Public Utilities Regulatory Authority's (PURA) and the Connecticut Siting Council's jurisdiction.

Lastly, the bill requires OPM, in consultation with PURA and the Siting Council, to work with municipalities to establish a process for siting small wireless facilities on municipal property and, when using utility or light poles is insufficient, private property with the property owner's permission.

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EFFECTIVE DATE: July 1, 2019

### **COUNCIL ON 5G TECHNOLOGY**

The bill establishes the Council on 5G Technology, which consists of the following people, or their designees: (1) an employee from the governor's office, designated by the governor; (2) the OPM secretary; and (3) the commissioners of the Department of Administrative Services (DAS), Department of Transportation (DOT), and Department of Energy and Environmental Protection (DEEP).

#### ***Wireless Carrier Requests to Use State Property***

The bill requires the council to accept and review requests from wireless carriers to use state real properties (i.e., any improved or unimproved real property owned by a state agency) to place, construct, maintain, and operate personal wireless service facilities and small wireless facilities. The requests must be made on the forms developed jointly by OPM and other state agencies (see below). Any request to use DOT-managed property must conform to (1) the department's policy on installing new utility facilities on any state or interstate highway, (2) the American Association of State Highway and Transportation Official's Policy on the Accommodation of Utilities on Freeway Rights of Way, and (3) and the Federal Highway Administration's regulations or policies.

The council must adopt guidelines for its operations and the determinations it makes on wireless carrier requests. The guidelines on determinations must at least include provisions on (1) the safe placement of personal wireless service facilities, (2) protecting open space land, and (3) extensions of time for the council's determinations.

The bill requires any wireless carrier that submits a request to the council to submit its master plan for personal wireless service facilities and small wireless facilities in the state. It must do so when it submits its first request to the council and then every two years. In general, a carrier's master plan, among other things, inventories existing wireless facilities and identifies sites for future facilities.

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**Review and Determinations on Requests**

The council must accept and review comments from any state agency affected by a wireless carrier's request and any interested person. Under the bill, an "interested person" is an individual, business, or other legal or commercial entity that owns land in the state that is within a 500-foot radius of any portion of state real property under review by the council for a wireless carrier's request. In evaluating a request, the council must perform due diligence for each state real property involved in the request. This includes periodic consideration and assessment of product testing, public health and safety, state bonding implications, and environmental concerns.

After reviewing comments and conducting due diligence, the council must determine, in accordance with any Federal Communications Commission regulations, rulings, and orders, which lands, buildings, easements, public rights of way, and real property owned by the state may be made available to wireless carriers to place, construct, maintain, and operate personal wireless service facilities and small wireless facilities. In making the determination, the council must give preference to requests that include collocating personal wireless service facilities and small wireless facilities from other wireless carriers. The council must make its determinations by a majority vote of the council within 90 days after a request, unless it determines that an extension is necessary under its guidelines.

**LICENSING AGREEMENTS, FORMS, AND FEES**

The bill requires OPM, DEEP, DAS, and DOT to jointly develop the following by November 1, 2019:

1. one or more telecommunication license agreements to govern the placement of personal wireless service facilities and small wireless facilities on state-owned property,
2. a common form or set of forms for wireless carrier requests to the council, and
3. a fee structure for wireless carrier requests to the council.



**BACKGROUND*****Personal Wireless Service Facilities***

Under federal law, personal wireless service facilities are facilities that provide personal wireless services (e.g., cell phone service). Such services are commercial mobile, unlicensed wireless, and common carrier wireless exchange access services (47 U.S.C. 332(c)(7)).

***Small Wireless Facilities***

Under federal regulations, small wireless service facilities are facilities that meet each of the following conditions:

1. (a) mounted on structures that are 50 feet or less tall, including their antennas, or that are no more than 10% taller than other adjacent structures, or (b) do not extend existing structures on which they are mounted to a height of more than 50 feet or 10%, whichever is greater;
2. each associated antenna, excluding antenna equipment, does not exceed three cubic feet in volume;
3. other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, does not exceed 28 cubic feet in volume;
4. do not require antenna structure registration;
5. not located on tribal lands; and
6. do not expose humans to radiofrequency radiation that exceeds applicable federal standards (C.F.R. § 1.6002).

***Related Bill***

sSB 846, reported favorably by the Energy and Technology Committee, requires PURA to adopt regulations establishing the process to public utility pole attachments, including those for 5G service.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable

Yea 24 Nay 0 (03/12/2019)