



# ALABAMA LEAGUE OF MUNICIPALITIES

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KEN SMITH  
Executive Director

MAYOR RONNIE MARKS, ATHENS  
President

May 20, 2019

Senator  
Alabama Senate  
11 South Union Street  
Montgomery, Alabama 36130

Dear Senator :

Given the mounting pressure to pass legislation relating to the deployment of small cell technology, specifically SB 264, the League wishes to address the issue, as it relates to the cities and towns you represent, directly.

First and foremost, it is important to understand that failure to pass SB264, or any other legislation on the issue of small cell deployment WILL NOT prevent the deployment of small cell technology in Alabama. The fact is, small cell technology is being deployed in several of Alabama's municipalities as a result of locally negotiated agreements which are already subject to the current FCC regulations. Those regulations provide for expedited review times and limits on fees that can be charged by local government. Arguments that failure to pass this bill will somehow prevent the expansion of wireless in Alabama are without merit.

Second, any attempts to argue that failure to pass this legislation will somehow prevent the expansion of coverage to rural areas of Alabama in need of wireless services is disingenuous at best and deliberately misleading at worst. This technology is not for rural areas. The technology employed for small cell is designed to relieve wireless speed issues for densely populated areas where usage is already high. Those densely populated, metropolitan, cities where this technology is most useful and needed are already in the best position to negotiate with industry on what is appropriate in those areas. And in negotiating with industry are subject to the current FCC regulations which favor industry.

Third, we ask that you resist the temptation to pass unnecessary statewide legislation deciding this issue for local government. Other states who have passed legislation in recent years are currently embroiled in costly litigation, especially those states who, like Alabama, have constitutional provisions protecting the right of local government to regulate the public rights of way. Alabama's constitution makes it clear that Alabama's municipalities, not the state legislature, are in the best position to make policy decisions for their local citizens with regard to use of public rights of way.

*The voice of Alabama's municipalities since 1935.*

Finally, while our members remain staunchly opposed to any type of local regulatory pre-emption and firmly believe this legislation is unnecessary at this time given the current regulatory scheme in place through the FCC, we have provided the wireless industry representatives pushing for the passage of legislation in Alabama with a substitute, prepared with the input of many larger metropolitan municipalities who know these issues and already have agreements in place. The substitute we have provided strikes the appropriate balance between industry's desire to pass statewide legislation and local governments constitutionally directed authority to protect PUBLIC rights of ways. In our view, the substitute we have provided is an acceptable and appropriate compromise as it was submitted to industry. Frankly, it was a big concession for many of our members to even get on board with state-wide legislation which would dictate local right of way control on this issue.

Because this legislation is not needed to deploy small cell in Alabama, we urge you to oppose passage of legislation this Legislative session and allow us to not rush into this type of regulation and continue to work through these issues with industry.

Sincerely,

Ken Smith  
Executive Director