



HOUSE BILL 68: BRIGHT Futures Act.

2017-2018 General Assembly

| | | | |
|-----------------------|-------------------------------------------------------------------------------------------|---------------------|-----------------|
| Committee: | House Energy and Public Utilities. If favorable, re-refer to Commerce and Job Development | Date: | April 18, 2017 |
| Introduced by: | Reps. Szoka, Saine, S. Martin, Brenden Jones | Prepared by: | Erika Churchill |
| Analysis of: | PCS to First Edition H68-CSST-6 v.15 | | Staff Attorney |

OVERVIEW: *The proposed committee substitute for House Bill 68, version 15, would:*

- Clarify that cities may lease components of a wired or wireless network that are part of a public enterprise operated by the city;
- Clearly establish that counties may construct and operate facilities to support intragovernmental services, including wired or wireless network facilities;
- Establish that counties and cities may lease components of a wired or wireless network, for a lease term of up to 25 years;
- Require that counties and cities, in leasing components or a wired or wireless network, do so on a competitively neutral and nondiscriminatory basis and made available to similarly situated providers on comparable terms and conditions;
- Establish that public-private partnerships may include capital improvement projects that include construction of components of a wired or wireless network in conjunction with or part of another construction project undertaken by a city or county, while clarifying that the authority granted does not extend to a county or city unilaterally providing high-speed Internet or infrastructure needed to support broadband, computing or communications components; and
- Establishes several reporting requirements of various agencies.

[As introduced, this bill was identical to S65, as introduced by Sen. Meredith, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW AND BILL ANALYSIS:

➤ COUNTIES AND CITIES AND COMMUNICATIONS NETWORKS.

Generally, cities and counties may own and operate those services authorized by the General Assembly for cities and counties to provide. Cities are currently authorized to provide cable TV services as a public enterprise, and to provide communications services, within certain constraints. Exempt from these is the city owning and providing communications service for the city's internal governmental purposes.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 68

Page 2

When acquiring, constructing or maintaining property, counties and cities must abide by Article 8 of Chapter 143, Purchase and Contract. That Article sets forth the requirements for bidding of certain types of contracts. One of the types of bidding authorized is for 'public-private partnerships.' With that type of bidding, the governmental entity determines in writing that it has a critical need for a capital improvement project, in an open meeting, then seeks interested private developers to submit qualifications, then selects one or more private developers with whom to negotiate the terms and conditions of the contract to perform the public-private project.

When disposing of property, counties and cities generally dispose of real and personal property in accordance with the procedures established by Article 12 of Chapter 160A of the General Statutes. Subject to certain limitations, a county or city can dispose of real or personal property belonging to the county or city by:

- Private negotiation and sale
- Advertisement for sealed bids
- Negotiated offer, advertisement, and upset bid
- Public auction
- Exchange with another unit of local government
- Lease

With respect to the sale, lease or discontinuance of certain city-owned public enterprises, such as cable TV or gas systems, the city is required to hold a vote of the people prior to disposal of the property. With water systems, in particular, a vote of people may be held but is not required.

Section 1 would:

1. Allow a unit of local government, when leasing property that is a component of a wired or wireless network, including property of a public enterprise, to do so for a term up to 25 years without treating the lease as a sale of the property under Article 12 of Chapter 160A of the General Statutes.
2. Require a unit of local government, property that is a component of a wired or wireless network, to do so on a competitively neutral and nondiscriminatory basis, made available to similarly situated providers on comparable terms and conditions, and not used to subsidize the provision of competitive service.

Section 2 would specify that a city leasing a component of a wired or wireless network within a public enterprise is not subject to the requirement of a vote of people prior to leasing the property of the public enterprise.

Section 3(a) would clarify that counties have the authority construct and operate facilities to support intragovernmental services for the county's internal governmental purposes, including wired or wireless network facilities.

Section 3(b) would amend the statutory authority to enter into public-private partnerships to authorize cities and counties to undertake capital improvement projects for the benefit of a city or county that includes construction of components of a wired or wireless network in conjunction with, or part of, another construction project. However, cities nor counties would be authorized to unilaterally provide high speed Internet broadband service, or infrastructure needed to support broadband, computing and communications components.

House PCS 68

Page 3

➤ ADDITIONAL REPORTING.

Sections 5-8 establish additional reporting requirements of various agencies, as set out below, with respect to BRIGHT markets. BRIGHT markets are defined to mean broadband, retail online services, the internet of things, the power grid, health care, and training and education market segments.

- North Carolina Board of Science, Technology, and Innovation. Directs the Board to annually report on the impact that technology and innovation in the BRIGHT markets is having on economic growth and development in the State, including recommendations for increasing that impact, to the Governor, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division, the Secretary of Commerce, and certain nonprofits with which the Department of Commerce contracts.
- State Board of Community Colleges. Directs the Board to include in its annual report to the Joint Legislative Education Oversight Committee an assessment of how the Customized Training Program has been used to support companies in BRIGHT Market segments, including recommendations on how efforts can be expanded or aligned with non-degree certification programs to increase employment in jobs in the NCWorks Online system.
- NC Works Commission. Directs the Commission, in administering the "No Adult Left Behind" Initiative, to submit an annual report regarding BRIGHT Market segments to the Governor and Chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the Chairs of the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division.
- Department of Commerce. Requires the Department to supplement certain reports with additional evaluations and recommendations relating to BRIGHT Market segments.

EFFECTIVE DATE: July 1, 2017, and applies to contracts entered into on or after that date.