

IMPACT STATEMENT

Legislation title: Authorize City Attorney to sue or join as a party in legal proceedings to maintain local control of, and reasonable compensation for access to, the City of Portland’s public rights of way. (Resolution)

Contact name: Maja K. Haium

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Presenter name: Jennifer Li, Anne Hill, Maja K. Haium

Purpose of proposed legislation and background information:

In the last three months, the Federal Communications Commission has issued a series of reports, orders and declaratory rulings that seek to significantly limit the City of Portland’s ability to manage its local rights of way to benefit the Portland residents who have invested billions in the City’s largest physical asset.

The proposed legislation would empower the City Attorney’s Office to file a complaint, or join as a co-plaintiff in a complaint, against the federal government and its officials to maintain local control of, and reasonable compensation for access to, the City of Portland’s public rights of way.

Financial and budgetary impacts:

There would be no direct financial and budgetary impact on the City from the conduct of the litigation itself: the litigation will be conducted using existing resources within the Office for Community Technology’s budget.

Community impacts and community involvement:

This litigation would overturn the Federal Communications Commission’s recent rulings that significantly limit the City of Portland’s ability to manage its public rights of way, contributing to the well-being and safety of all Portland residents.

Budgetary Impact Worksheet

Does this action change appropriations?

YES: Please complete the information below.

NO: Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

Impact Statement for Requested Council Action



Office of Mayor Ted Wheeler
City of Portland

TO: Karla Moore-Love

AUDITOR 10/01/18 AM 9:20

FROM: Mayor Ted Wheeler
Commissioner Chloe Eudaly
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Dan Saltzman

DATE: September 28, 2018

City Council would like to call a Special Meeting to consider a resolution authorizing the City Attorney's Office to file litigation against the Federal Communications Commission (FCC). The Special Meeting will be scheduled for Tuesday October 2, 2018 at 11:15 am. The litigation must be filed by October 2, 2018 and no Regular Meeting takes place before the court deadline.

On August 2, 2018, the FCC adopted a "Third Report and Order and Declaratory Ruling" (Ruling) interpreting Section 253(a) of the federal Communications Act to prohibit express and *de facto* moratoria on applications and permits to deploy wireless or wireline telecom services and facilities. The legal underpinnings of this Ruling – that Section 253 applies to wireless and to any facility (wireless or wireline) that is used to provide a telecom service, regardless of what services it provides – will be used to impose further preemptions related to small cells and should be vigorously challenged.

Mayor Ted Wheeler

Commissioner Nick Fish

Commissioner Chloe Eudaly

Commissioner Amanda Fritz

Commissioner Dan Saltzman