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Ohio Cities to Challenge Wireless Facilities Law

FOR IMMEDIATE RELEASE – Members of the Central Ohio Mayors and Managers Association (“COMMA”) announced today the filing of legal action seeking to overturn S.B. 331 passed by the General Assembly late last December. COMMA, an association of 17 cities within the Columbus region, is also being joined by members of the Greater Dayton Mayors and Managers Association and other Ohio cities seeking court action to overturn a law which they believe violates the Ohio Constitution.

SB 331 was passed by the Ohio General Assembly during the lame duck session at the end of 2016. The bill was signed by Governor Kasich December 19, 2016 and is set to become effective March 21. The legislation, which concerns a variety of unrelated matters including the regulation of pet stores in Ohio, had a provision added to it, without any legislative hearings or study of the issue, allowing AT&T, along with three other service providers (Sprint, Verizon, and T-Mobile) to attach small cell wireless antennas to municipally owned structures within the right of way of any Ohio city. “Senate Bill 331 effectively prohibits cities from regulating the placement of wireless facilities in our communities. This will impact the streetscapes of our communities and reduce area property values,” said COMMA Chairman and Bexley Mayor Ben Kessler.

The bases for the legal challenge to the provision are two-pronged. First, the lawsuit alleges that the bill violates the “single subject” rule laid out in the Ohio Constitution, which states that “no bill shall contain more than one subject, which shall be clearly expressed in its title.” Second, the provision exclusively applies to municipalities – not townships, counties or other political subdivisions. The general applicability of a law state-wide is a necessary criterion in overriding Ohio’s long-standing Home Rule authority that permits cities to govern themselves unless pre-empted by a general law of the state.

It is imperative that municipalities retain local control over decisions such as the location of small cell wireless antennas within their public right of way. To allow telecommunications companies unrestricted ability to install their infrastructure wherever they please is in blatant violation of the Home Rule rights guaranteed municipalities in Ohio’s Constitution. “Ohio municipalities embrace the rapid deployment of small cell technology for our residents and businesses, however that must be balanced with the orderly management of public rights of way and publicly owned properties,” Dublin City Manager Dana McDaniel said.

Columbus Mayor Andrew Ginther went on to state “Citizens expect that their community leaders are able to protect their interests, both on a safety front and for sound management of

the installation of infrastructure and this bill strips municipalities ability to protect the interests of their citizens.”

While the General Assembly gave deference to big business over the Constitutional authority granted to Ohio municipalities, this lawsuit will seek to restore that authority to where it rightfully belongs. The law, if sustained, allows wireless companies to place facilities, including towers up to 50 feet high and equipment of 28 cubic feet (the size of a small refrigerator), in the local public right-of-way.

Members of COMMA include the following cities: Bexley, Canal Winchester, Columbus, Dublin, Delaware, Gahanna, Grandview Heights, Grove City, Hilliard, New Albany, Pickerington, Powell, Reynoldsburg, Upper Arlington, Westerville, Whitehall & Worthington.

For more information, contact COMMA Chairman & Bexley Mayor Ben Kessler at **(614) 559-4210** or bkessler@bexley.org

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