

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Small  
5 Wireless Facilities Deployment Act.

6 Section 5. Legislative intent. Small wireless facilities  
7 are critical to delivering wireless access to advanced  
8 technology, broadband, and 9-1-1 services to homes,  
9 businesses, and schools in Illinois. Because of the integral  
10 role that the delivery of wireless technology plays in the  
11 economic vitality of the State of Illinois and in the lives of  
12 its citizens, the General Assembly has determined that a law  
13 addressing the deployment of wireless technology is of vital  
14 interest to the State. To ensure that public and private  
15 Illinois consumers continue to benefit from these services as  
16 soon as possible and to ensure that providers of wireless  
17 access have a fair and predictable process for the deployment  
18 of small wireless facilities in a manner consistent with the  
19 character of the area in which the small wireless facilities  
20 are deployed, the General Assembly is enacting this Act, which  
21 specifies how local authorities may regulate the collocation of  
22 small wireless facilities.

1           Section 7. Applicability. This Act does not apply to a  
2 municipality with a population of 1,000,000 or more.

3           Section 10. Definitions. As used in this Act:

4           "Antenna" means communications equipment that transmits or  
5 receives electromagnetic radio frequency signals used in the  
6 provision of wireless services.

7           "Applicable codes" means uniform building, fire,  
8 electrical, plumbing, or mechanical codes adopted by a  
9 recognized national code organization or local amendments to  
10 those codes, including the National Electric Safety Code.

11           "Applicant" means any person who submits an application and  
12 is a wireless provider.

13           "Application" means a request submitted by an applicant to  
14 an authority for a permit to collocate small wireless  
15 facilities as well as any applicable fee for the review of such  
16 application.

17           "Authority" means a unit of local government that has  
18 jurisdiction and control for use of public rights-of-way as  
19 provided by the Illinois Highway Code for placements within  
20 public rights-of-way or has zoning or land use control for  
21 placements not within public rights-of-way.

22           "Authority utility pole" means a utility pole owned or  
23 operated by an authority in public rights-of-way.

24           "Collocate" or "collocation" means to install, mount,  
25 maintain, modify, operate, or replace wireless facilities on or

1 adjacent to a wireless support structure or utility pole.

2 "Communications service" means cable service, as defined  
3 in 47 U.S.C. 522(6), as amended; information service, as  
4 defined in 47 U.S.C. 153(24), as amended; telecommunications  
5 service, as defined in 47 U.S.C. 153(53), as amended; mobile  
6 service, as defined in 47 U.S.C. 153(33), as amended; or  
7 wireless service other than mobile service.

8 "Communications service provider" means a cable operator,  
9 as defined in 47 U.S.C. 522(5), as amended; a provider of  
10 information service, as defined in 47 U.S.C. 153(24), as  
11 amended; a telecommunications carrier, as defined in 47 U.S.C.  
12 153(51), as amended; or a wireless provider.

13 "FCC" means the Federal Communications Commission of the  
14 United States.

15 "Fee" means a one-time charge.

16 "Law" means a federal or State statute, common law, code,  
17 rule, regulation, order, or local ordinance or resolution.

18 "Micro wireless facility" means a small wireless facility  
19 that is not larger in dimension than 24 inches in length, 15  
20 inches in width, and 12 inches in height and that has an  
21 exterior antenna, if any, no longer than 11 inches.

22 "Permit" means a written authorization required by an  
23 authority to perform an action or initiate, continue, or  
24 complete a project.

25 "Person" means an individual, corporation, limited  
26 liability company, partnership, association, trust, or other

1 entity or organization, including an authority.

2 "Rate" means a recurring charge.

3 "Right-of-way" means the area on, below, or above a public  
4 roadway, highway, street, public sidewalk, alley, or utility  
5 easement dedicated for compatible use. "Right-of-way" does not  
6 include authority-owned aerial lines.

7 "Small wireless facility" means a wireless facility that  
8 meets both of the following qualifications: (i) each antenna is  
9 located inside an enclosure of no more than 6 cubic feet in  
10 volume or, in the case of an antenna that has exposed elements,  
11 the antenna and all of its exposed elements could fit within an  
12 imaginary enclosure of no more than 6 cubic feet; and (ii) all  
13 other wireless equipment associated with the facility is  
14 cumulatively no more than 28 cubic feet in volume. The  
15 following types of associated ancillary equipment are not  
16 included in the calculation of equipment volume: electric  
17 meter, concealment elements, telecommunications demarcation  
18 box, ground-based enclosures, grounding equipment, power  
19 transfer switch, cut-off switch, and vertical cable runs for  
20 the connection of power and other services.

21 "Utility pole" means a pole or similar structure that is  
22 used in whole or in part by a communications service provider  
23 or for electric distribution, lighting, traffic control,  
24 signage, or a similar function.

25 "Wireless facility" means equipment at a fixed location  
26 that enables wireless communications between user equipment

1 and a communications network, including: (i) equipment  
2 associated with wireless communications; and (ii) radio  
3 transceivers, antennas, coaxial or fiber-optic cable, regular  
4 and backup power supplies, and comparable equipment,  
5 regardless of technological configuration. "Wireless facility"  
6 includes small wireless facilities. "Wireless facility" does  
7 not include: (i) the structure or improvements on, under, or  
8 within which the equipment is collocated; or (ii) wireline  
9 backhaul facilities, coaxial or fiber optic cable that is  
10 between wireless support structures or utility poles or  
11 coaxial, or fiber optic cable that is otherwise not immediately  
12 adjacent to or directly associated with an antenna.

13 "Wireless infrastructure provider" means any person,  
14 including a person authorized to provide telecommunications  
15 service in the State, that builds or installs wireless  
16 communication transmission equipment, wireless facilities,  
17 wireless support structures, or utility poles, but that is not  
18 a wireless services provider.

19 "Wireless provider" means a wireless infrastructure  
20 provider or a wireless services provider.

21 "Wireless services" means any services provided using  
22 licensed or unlicensed spectrum, whether at a fixed location or  
23 mobile, provided using wireless facilities.

24 "Wireless services provider" means a person who provides  
25 wireless services.

26 "Wireless support structure" means a freestanding

1 structure, such as a monopole; tower, either guyed or  
2 self-supporting; billboard; or other existing or proposed  
3 structure designed to support or capable of supporting wireless  
4 facilities. "Wireless support structure" does not include a  
5 utility pole.

6 Section 15. Regulation of small wireless facilities.

7 (a) This Section applies to activities of a wireless  
8 provider within or outside rights-of-way.

9 (b) Except as provided in this Section, an authority may  
10 not prohibit, regulate, or charge for the collocation of small  
11 wireless facilities.

12 (c) Small wireless facilities shall be classified as  
13 permitted uses and not subject to zoning review or approval if  
14 they are collocated (i) in rights-of-way in any zone, or (ii)  
15 outside rights-of-way in property not zoned primarily for  
16 residential use.

17 (d) An authority may require an applicant to obtain one or  
18 more permits to collocate a small wireless facility, provided  
19 that the permits are of general applicability. An authority  
20 shall receive applications for, process, and issue permits  
21 subject to the following requirements:

22 (1) An authority may not directly or indirectly require  
23 an applicant to perform services unrelated to the  
24 collocation for which approval is sought, such as in-kind  
25 contributions to the authority, including reserving fiber,

1 conduit, or pole space for the authority on the wireless  
2 provider's utility pole. An authority may reserve space on  
3 authority utility poles for future public safety uses or  
4 for the authority's electric utility uses, but a  
5 reservation of space may not preclude the collocation of a  
6 small wireless facility if the authority utility pole can  
7 accommodate both uses.

8 (2) An applicant shall not be required to provide more  
9 information to obtain a permit than the authority requires  
10 of a communications service provider that is not a wireless  
11 provider that requests to attach facilities to a structure;  
12 however, a wireless provider may be required to provide the  
13 following information when seeking a permit to collocate  
14 small wireless facilities on an authority utility pole:

15 (A) site specific structural integrity and  
16 make-ready analysis prepared by a structural engineer,  
17 as that term is defined in Section 4 of the Structural  
18 Engineering Practice Act of 1989;

19 (B) the location where each proposed small  
20 wireless facility or utility pole would be installed  
21 and photographs of the location and its immediate  
22 surroundings depicting the poles or structures on  
23 which each proposed small wireless facility would be  
24 mounted or location where utility poles or structures  
25 would be installed;

26 (C) specifications and drawings prepared by a

1 structural engineer, as that term is defined in Section  
2 4 of the Structural Engineering Practice Act of 1989,  
3 for each proposed small wireless facility covered by  
4 the application as it is proposed to be installed;

5 (D) a proposed schedule for the installation and  
6 completion of each small wireless facility covered by  
7 the application, if approved; and

8 (E) certification that the collocation complies  
9 with paragraph (6) to the best of the applicant's  
10 knowledge.

11 (3) Subject to paragraph (6), an authority may not  
12 require the placement of small wireless facilities on any  
13 specific utility pole, or category of poles, or require  
14 multiple antenna systems on a single utility pole; however,  
15 with respect to an application for the collocation of a  
16 small wireless facility associated with a new utility pole,  
17 an authority may propose that the small wireless facility  
18 be collocated on an existing utility pole or existing  
19 wireless support structure within 50 feet of the proposed  
20 collocation, which the applicant shall accept if it has the  
21 right to use the alternate structure on reasonable terms  
22 and conditions and the alternate location and structure  
23 does not impose technical limits or additional material  
24 costs as determined by the applicant.

25 (4) Subject to paragraph (6), an authority may not  
26 limit the placement of pole-mounted small wireless

1 facilities by minimum horizontal separation distances.

2 (5) An authority may limit the maximum height of a  
3 small wireless facility to 10 feet above the utility pole  
4 or wireless support structure on which the small wireless  
5 facility is collocated. Subject to any exception process in  
6 an authority's zoning ordinance, the authority may limit  
7 the height of new or replacement utility poles or wireless  
8 support structures on which small wireless facilities are  
9 collocated to the higher of: (i) 10 feet in height above  
10 the tallest existing utility pole, other than a utility  
11 pole supporting only wireless facilities, that is in place  
12 on the date the application is submitted to the authority,  
13 that is located within 500 feet of the new or replacement  
14 wireless support structure and that is in the same right of  
15 way within the jurisdictional boundary of the authority; or  
16 (ii) 45 feet above ground level.

17 (6) An authority may require that:

18 (A) the wireless provider's operation of the small  
19 wireless facilities in the right-of-way does not  
20 interfere with the frequencies used by the authority's  
21 public safety communications;

22 (B) the wireless provider comply with requirements  
23 that are imposed by a contract between an authority and  
24 a private property owner that concern design or  
25 construction standards applicable to utility poles and  
26 ground-mounted equipment located in the right-of-way;

1 (C) the wireless provider comply with applicable  
2 spacing requirements in applicable codes and  
3 ordinances concerning the location of ground-mounted  
4 equipment located in the right-of-way if the  
5 requirements include a waiver, zoning, or other  
6 process that addresses wireless provider requests for  
7 exception or variance and do not prohibit granting of  
8 such exceptions or variances;

9 (D) the wireless provider comply with local code  
10 provisions or regulations concerning undergrounding  
11 requirements that prohibit the installation of new or  
12 the modification of existing utility poles in a right  
13 of way without prior approval if the requirements  
14 include a waiver, zoning, or other process that  
15 addresses requests to install such new utility poles or  
16 modify such existing utility poles and do not prohibit  
17 the replacement of utility poles;

18 (E) the wireless provider comply with generally  
19 applicable standards adopted by an authority for  
20 construction in the rights-of-way; and

21 (F) a wireless provider not collocate small  
22 wireless facilities on authority utility poles that  
23 are part of an electric distribution or transmission  
24 system within the communication worker safety zone of  
25 the pole or the electric supply zone of the pole;  
26 however, the antenna and support equipment of the small

1 wireless facility may be located in the communications  
2 space on the pole and on the top of the pole, if not  
3 otherwise unavailable, if the wireless provider  
4 complies with applicable codes for work involving the  
5 top of the pole; for purposes of this subparagraph (F),  
6 the terms "communications space", "communication  
7 worker safety zone", and "electric supply zone" have  
8 the meanings given to those terms in the National  
9 Electric Safety Code as published by the Institute of  
10 Electrical and Electronics Engineers.

11 (7) Within 30 days after receiving an application, an  
12 authority must determine whether the application is  
13 complete and notify the applicant. If an application is  
14 incomplete, an authority must specifically identify the  
15 missing information. An application shall be deemed  
16 complete if the authority fails to provide notification to  
17 the applicant within 30 days after when all documents,  
18 information, and fees specifically enumerated in the  
19 authority's permit application form are submitted by the  
20 applicant to the authority. Processing deadlines are  
21 tolled from the time the authority sends the notice of  
22 incompleteness to the time the applicant provides the  
23 missing information.

24 (8) An application shall be processed on a  
25 nondiscriminatory basis and deemed approved if the  
26 authority fails to approve or deny the application within

1       90 days; however, if an applicant intends to proceed with  
2       the permitted activity on a deemed approved basis, the  
3       applicant must notify the authority in writing of its  
4       intention to invoke the deemed approved remedy no sooner  
5       than 75 days after the submission of a completed  
6       application. The permit shall be deemed approved on the  
7       latter of the 90th day after submission of the complete  
8       application or the 10th day after the receipt of the deemed  
9       approved notice by the authority. The receipt of the deemed  
10      approved notice shall not preclude the authority's denial  
11      of the permit request within the time limits as provided  
12      under this Act.

13           (9) An authority shall approve an application unless  
14      the application does not meet the applicable codes, local  
15      code provisions or regulations that concern public safety,  
16      written design standards that are generally applicable for  
17      decorative utility poles or reasonable stealth and  
18      concealment requirements, and the requirements of  
19      paragraph (6). If an authority determines that applicable  
20      codes, local code provisions or regulations, or the  
21      requirements of paragraph (6) require that the utility pole  
22      or wireless support structure be replaced before the  
23      requested collocation, approval may be conditioned on the  
24      replacement of the utility pole or wireless support  
25      structure. The authority must document the basis for a  
26      denial, including the specific code provisions or

1 application conditions on which the denial was based, and  
2 send the documentation to the applicant on or before the  
3 day the authority denies an application. The applicant may  
4 cure the deficiencies identified by the authority and  
5 resubmit the application within 30 days after notice of  
6 denial is sent to the applicant without paying an  
7 additional application fee. The authority shall approve or  
8 deny the revised application within 30 days after the  
9 applicant resubmits the application or it is deemed  
10 approved; however, the applicant must notify the authority  
11 in writing of its intention to proceed with the permitted  
12 activity on a deemed approved basis, which may be submitted  
13 with the resubmitted application. Any subsequent review  
14 shall be limited to the deficiencies cited in the denial.

15 (10) The time period for applications may be further  
16 tolled by:

17 (A) the express agreement in writing by both the  
18 applicant and the authority; or

19 (B) a local, State, or federal disaster  
20 declaration or similar emergency that causes the  
21 delay.

22 (11) An applicant seeking to collocate small wireless  
23 facilities within the jurisdiction of a single authority  
24 shall be allowed, at the applicant's discretion, to file a  
25 consolidated application and receive a single permit for  
26 the collocation of up to 25 small wireless facilities if

1 the collocations each involve substantially the same type  
2 of small wireless facility and substantially the same type  
3 of structure. If an application includes multiple small  
4 wireless facilities, the authority may remove small  
5 wireless facility collocations from the application and  
6 treat separately small wireless facility collocations for  
7 which incomplete information has been provided or that do  
8 not qualify for consolidated treatment or that are denied.  
9 The authority may issue separate permits for each  
10 collocation that is approved in a consolidated  
11 application.

12 (12) Collocation for which a permit is granted shall be  
13 completed within 180 days after issuance of the permit,  
14 unless the authority and the wireless provider agree to  
15 extend this period or a delay is caused by make-ready work  
16 for an authority utility pole or by the lack of commercial  
17 power or backhaul availability at the site. Otherwise, the  
18 permit shall be void unless the authority grants an  
19 extension in writing to the applicant.

20 (13) The duration of a permit shall be for a period of  
21 not less than 10 years, and the permit shall be renewed for  
22 equivalent durations unless the authority makes a finding  
23 that the small wireless facilities or the new or modified  
24 utility pole do not comply with the applicable codes or  
25 local code provisions or regulations in paragraphs (6) and  
26 (9).

1           (14) An authority may not prohibit, either expressly or  
2           de facto, the (i) filing, receiving, or processing  
3           applications, or (ii) issuing of permits or other  
4           approvals, if any, for the collocation of small wireless  
5           facilities unless there has been a local, State, or federal  
6           disaster declaration or similar emergency that causes the  
7           delay.

8           (15) Applicants shall submit applications, supporting  
9           information, and notices by personal delivery or as  
10          otherwise required by the authority. An authority may  
11          require that permits, supporting information, and notices  
12          be submitted by personal delivery at the authority's  
13          designated place of business, by regular mail postmarked on  
14          the date due, or by any other commonly used means,  
15          including electronic mail, as required by the authority.

16          (e) Application fees are subject to the following  
17          requirements:

18               (1) An authority may charge an application fee only if  
19               the fee is required for similar types of commercial  
20               development within the authority's jurisdiction.

21               (2) An authority shall only charge fees for the actual,  
22               direct, and reasonable costs incurred by the authority  
23               relating to the granting or processing of an application.  
24               The fees shall be reasonably related in time to the  
25               incurring of such costs.

26               (3) A fee may not include: (i) travel expenses incurred

1 by a third party in its review of an application; or (ii)  
2 direct payment or reimbursement of fees charged on a  
3 contingency basis or a result-based arrangement.

4 (4) Total application fees, where permitted, shall not  
5 exceed the lesser of: (i) the amount charged by the  
6 authority for a building permit for any similar commercial  
7 construction, activity, or land use development; or (ii)  
8 \$350 for each small wireless facility addressed in the  
9 application.

10 (f) An authority shall not require an application,  
11 approval, or permit, or require any fees or other charges, from  
12 a communications service provider authorized to occupy the  
13 rights-of-way, for: (i) routine maintenance; (ii) the  
14 replacement of wireless facilities with wireless facilities  
15 that are substantially similar, the same size, or smaller; or  
16 (iii) the installation, placement, maintenance, operation, or  
17 replacement of micro wireless facilities that are suspended on  
18 cables that are strung between existing utility poles in  
19 compliance with applicable safety codes. However, an authority  
20 may require a permit to work within rights-of-way for  
21 activities that affect traffic patterns or require lane  
22 closures.

23 (g) Nothing in this Act authorizes a person to collocate  
24 small wireless facilities on: (1) private property or a  
25 privately owned utility pole or wireless support structure  
26 without the consent of the property owner; (2) property owned,

1 leased, or controlled by a park district, forest preserve  
2 district, or conservation district for public park,  
3 recreation, or conservation purposes without the consent of the  
4 affected district, excluding the placement of facilities on  
5 rights-of-way located in an affected district that are under  
6 the jurisdiction and control of a different unit of local  
7 government as provided by the Illinois Highway Code; or (3)  
8 property owned by a rail carrier registered under Section  
9 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or  
10 any other public commuter rail service, or an electric utility  
11 as defined in Section 16-102 of the Public Utilities Act,  
12 without the consent of the rail carrier, public commuter rail  
13 service, or electric utility. The provisions of this Act do not  
14 apply to an electric or gas public utility or such utility's  
15 wireless facilities if the facilities are being used,  
16 developed, and maintained consistent with the provisions of  
17 subsection (i) of Section 16-108.5 of the Public Utilities Act.  
18 For the purposes of this subsection, "public utility" has the  
19 meaning given to that term in Section 3-105 of the Public  
20 Utilities Act. Nothing in this Act shall be construed to  
21 relieve any person from any requirement (1) to obtain a  
22 franchise or a state-issued authorization to offer cable  
23 service or video service or (2) to obtain any required  
24 permission to install, place, maintain, or operate  
25 communications facilities, other than small wireless  
26 facilities subject to this Act.

1 (h) Agreements between authorities and wireless providers  
2 that relate to the collocation of small wireless facilities in  
3 the right-of-way, including the collocation of small wireless  
4 facilities on authority utility poles, that are in effect  
5 before the wireless provider accepts rates or fees under this  
6 Act remain in effect for all small wireless facilities  
7 collocated on the authority's utility poles pursuant to  
8 applications submitted to the authority before the effective  
9 date of this Act, subject to applicable termination provisions.  
10 The wireless provider may accept the rates, fees, and terms  
11 provided under this Act for the collocation of small wireless  
12 facilities that are the subject of an application submitted  
13 after the rates, fees, and terms become effective.

14 (i) An authority shall allow the collocation of small  
15 wireless facilities on authority utility poles subject to the  
16 following:

17 (1) An authority may not enter into an exclusive  
18 arrangement with any person for the right to attach small  
19 wireless facilities to authority utility poles.

20 (2) The rates and fees for collocations on authority  
21 utility poles shall be nondiscriminatory regardless of the  
22 services provided by the collocating person.

23 (3) An authority may charge an annual recurring rate to  
24 collocate a small wireless facility on an authority utility  
25 pole that equals (i) \$200 per year or (ii) the actual,  
26 direct, and reasonable costs related to the wireless

1 provider's use of space on the authority utility pole. In  
2 any controversy concerning the appropriateness of a  
3 cost-based rate for an authority utility pole, the  
4 authority shall have the burden of proving that the rate  
5 does not exceed the actual, direct, and reasonable costs  
6 for the applicant's proposed use of the pole. Nothing in  
7 this paragraph (3) prohibits a wireless provider and an  
8 authority from mutually agreeing to an annual recurring  
9 rate of less than \$200 to collocate a small wireless  
10 facility on an authority utility pole.

11 (4) If an authority has an existing pole attachment  
12 rate, fee, or other term that does not comply with the  
13 requirements in this Section, the authority shall, no later  
14 than 6 months after the effective date of this Act, reform  
15 the rate, fee, or term in compliance with this Section.

16 (5) Authorities or other persons owning or controlling  
17 authority utility poles shall offer rates, fees, and other  
18 terms that comply with subparagraphs (A) through (D) of  
19 this paragraph (5). Within 6 months after the effective  
20 date of this Act or 3 months after receiving a request to  
21 collocate its first small wireless facility on an authority  
22 utility pole, whichever is later, a person owning or  
23 controlling authority utility poles shall make available,  
24 through ordinance or otherwise, the rates, fees, and terms  
25 for the collocation of small wireless facilities on such  
26 poles that comply with subparagraphs (A) through (D) of

1           this paragraph (5).

2           (A) The rates, fees, and terms must be  
3           nondiscriminatory, competitively neutral, and  
4           commercially reasonable and must comply with this  
5           subsection (i).

6           (B) For authority utility poles that support  
7           aerial facilities used to provide communications  
8           services or electric service, wireless providers shall  
9           comply with the process for make-ready work under 47  
10          U.S.C. 224 and its implementing regulations, and the  
11          authority shall follow a substantially similar process  
12          for make-ready work except to the extent that the  
13          timing requirements are otherwise addressed in this  
14          Act. The good-faith estimate of the person owning or  
15          controlling the pole for any make-ready work necessary  
16          to enable the pole to support the requested collocation  
17          shall include pole replacement, if necessary.

18          (C) For authority utility poles that do not support  
19          aerial facilities used to provide communications  
20          services or electric service, the authority shall  
21          provide a good-faith estimate for any make-ready work  
22          necessary to enable the pole to support the requested  
23          collocation, including pole replacement, if necessary,  
24          within 90 days after receipt of a complete application.  
25          Make-ready work, including any pole replacement, shall  
26          be completed within 60 days of written acceptance of

1 the good-faith estimate by the applicant.  
2 Alternatively, if the authority determines that  
3 applicable codes or public safety regulations require  
4 the authority utility pole to be replaced to support  
5 the requested collocation, the authority may require  
6 the wireless provider to replace the authority utility  
7 pole.

8 (D) The authority shall not require more  
9 make-ready work than required to meet applicable codes  
10 or industry standards. Fees for make-ready work,  
11 including any pole replacement, shall not exceed  
12 actual costs or the amount charged to communications  
13 service providers for similar work and shall not  
14 include any consultants' fees or expenses for  
15 authority utility poles that do not support aerial  
16 facilities used to provide communications services or  
17 electric service.

18 (j) An authority shall authorize the collocation of small  
19 wireless facilities on utility poles owned or controlled by the  
20 authority that are not located within rights-of-way to the same  
21 extent the authority permits access to utility poles for other  
22 commercial projects or uses. The collocations shall be subject  
23 to reasonable and nondiscriminatory rates, fees, and terms as  
24 provided in an agreement between the authority and the wireless  
25 provider.

26 (k) Nothing in this Section precludes an authority from

1 adopting reasonable rules with respect to the removal of  
2 abandoned small wireless facilities. A small wireless facility  
3 that is not operated for a continuous period of 12 months shall  
4 be considered abandoned and the owner of the facility must  
5 remove the small wireless facility within 90 days after receipt  
6 of written notice from the authority notifying the owner of the  
7 abandonment. The notice shall be sent by certified or  
8 registered mail, return receipt requested, by the authority to  
9 the owner at the last known address of the owner.

10 (1) Nothing in this Section requires an authority to  
11 install or maintain any specific utility pole or to continue to  
12 install or maintain utility poles in any location if the  
13 authority makes a non-discriminatory decision to eliminate  
14 above-ground utility poles of a particular type generally, such  
15 as electric utility poles, in all or a significant portion of  
16 its geographic jurisdiction. For authority utility poles with  
17 collocated small wireless facilities in place when an authority  
18 makes a decision to eliminate above-ground utility poles of a  
19 particular type generally, the authority shall either (i)  
20 continue to maintain the authority utility pole or install and  
21 maintain a reasonable alternative utility pole or wireless  
22 support structure for the collocation of the small wireless  
23 facility, or (ii) offer to sell the utility pole to the  
24 wireless provider at a reasonable cost or allow the wireless  
25 provider to install its own utility pole so it can maintain  
26 service from that location.

1           Section 20. Local authority. Subject to this Act and  
2 applicable federal law, an authority may continue to exercise  
3 zoning, land use, planning, and permitting authority within its  
4 territorial boundaries, including with respect to wireless  
5 support structures and utility poles; except that no authority  
6 shall have or exercise any jurisdiction or authority over the  
7 design, engineering, construction, installation, or operation  
8 of any small wireless facility located in an interior structure  
9 or upon the site of any campus, stadium, or athletic facility  
10 not otherwise owned or controlled by the authority, other than  
11 to comply with applicable codes and local code provisions  
12 concerning public safety. Nothing in this Act authorizes the  
13 State or any political subdivision, including an authority, to  
14 require wireless facility deployment or to regulate wireless  
15 services.

16           Section 25. Dispute resolution. A circuit court has  
17 jurisdiction to resolve all disputes arising under this Act.  
18 Pending resolution of a dispute concerning rates for  
19 collocation of small wireless facilities on authority utility  
20 poles, the authority shall allow the collocating person to  
21 collocate on its poles at annual rates of no more than \$200 per  
22 year per utility pole, with rates to be determined upon final  
23 resolution of the dispute.

1           Section 30. Indemnification. A wireless provider shall  
2 indemnify and hold an authority harmless against any and all  
3 liability or loss from personal injury or property damage  
4 resulting from or arising out of, in whole or in part, the use  
5 or occupancy of the authority improvements or right-of-way  
6 associated with such improvements by the wireless provider or  
7 its employees, agents, or contractors arising out of the rights  
8 and privileges granted under this Act. A wireless provider has  
9 no obligation to indemnify or hold harmless against any  
10 liabilities and losses as may be due to or caused by the sole  
11 negligence of the authority or its employees or agents. A  
12 wireless provider shall further waive any claims that they may  
13 have against an authority with respect to consequential,  
14 incidental, or special damages, however caused, based on the  
15 theory of liability.

16           Section 35. Insurance.

17           (a) Except for a wireless provider with an existing  
18 franchise to occupy and operate in the rights-of-way, during  
19 the period in which the wireless provider's facilities are  
20 located on the authority improvements or rights-of-way, the  
21 authority may require the wireless provider to carry, at the  
22 wireless provider's own cost and expense, the following  
23 insurance: (i) property insurance for its property's  
24 replacement cost against all risks; (ii) workers' compensation  
25 insurance, as required by law; or (iii) commercial general

1 liability insurance with respect to its activities on the  
2 authority improvements or rights-of-way to afford minimum  
3 protection limits consistent with its requirements of other  
4 users of authority improvements or rights-of-way, including  
5 coverage for bodily injury and property damage. An authority  
6 may require a wireless provider to include the authority as an  
7 additional insured on the commercial general liability policy  
8 and provide certification and documentation of inclusion of the  
9 authority in a commercial general liability policy as  
10 reasonably required by the authority.

11 (b) A wireless provider may self-insure all or a portion of  
12 the insurance coverage and limit requirements required by an  
13 authority. A wireless provider that self-insures is not  
14 required, to the extent of the self-insurance, to comply with  
15 the requirement for the naming of additional insureds under  
16 this Section. A wireless provider that elects to self-insure  
17 shall provide to the authority evidence sufficient to  
18 demonstrate its financial ability to self-insure the insurance  
19 coverage and limits required by the authority.

20 Section 40. Home rule. A home rule unit may not regulate  
21 small wireless facilities in a manner inconsistent with this  
22 Act. This Section is a limitation under subsection (i) of  
23 Section 6 of Article VII of the Illinois Constitution on the  
24 concurrent exercise by home rule units of powers and functions  
25 exercised by the State.

1 Section 90. Repeal. This Act is repealed on June 1, 2020.

2 Section 100. The Counties Code is amended by changing  
3 Section 5-12001.2 as follows:

4 (55 ILCS 5/5-12001.2)

5 Sec. 5-12001.2. Regulation of telecommunications  
6 facilities; Lake County pilot project. In addition to any other  
7 requirements under this Division concerning the regulation of  
8 telecommunications facilities and except as provided by the  
9 Small Wireless Facilities Deployment Act, the following  
10 applies to any new telecommunications facilities in Lake County  
11 that are not AM telecommunications towers or facilities:

12 (a) For every new wireless telecommunications facility  
13 requiring a new tower structure, a telecommunications  
14 carrier shall provide the county with documentation  
15 consisting of the proposed location, a site plan, and an  
16 elevation that sufficiently describes a proposed wireless  
17 facility location.

18 (b) The county shall have 7 days to review the facility  
19 proposal and contact the telecommunications carrier in  
20 writing via e-mail or other written means as specified by  
21 the telecommunications carrier. This written communication  
22 shall either approve the proposed location or request a  
23 meeting to review other possible alternative locations. If

1 requested, the meeting shall take place within 7 days after  
2 the date of the written communication.

3 (c) At the meeting, the telecommunications carrier  
4 shall provide the county documentation consisting of radio  
5 frequency engineering criteria and a corresponding  
6 telecommunications facility search ring map, together with  
7 documentation of the carrier's efforts to site the proposed  
8 facility within the telecommunications facility search  
9 ring.

10 (d) Within 21 days after receipt of the carrier's  
11 documentation, the county shall propose either an  
12 alternative site within the telecommunications facility  
13 search ring, or an alternative site outside of the  
14 telecommunications search ring that meets the radio  
15 frequency engineering criteria provided by the  
16 telecommunications carrier and that will not materially  
17 increase the construction budget beyond what was estimated  
18 on the original carrier proposed site.

19 (e) If the county's proposed alternative site meets the  
20 radio frequency engineering criteria provided by the  
21 telecommunications carrier, and will not materially  
22 increase the construction budget beyond what was estimated  
23 on the original carrier proposed site, then the  
24 telecommunications carrier shall agree to build the  
25 facility at the alternative location, subject to the  
26 negotiation of a lease with commercially reasonable terms

1 and the obtainment of the customary building permits.

2 (f) If the telecommunications carrier can demonstrate  
3 that: (i) the county's proposed alternative site does not  
4 meet the radio frequency engineering criteria, (ii) the  
5 county's proposed alternative site will materially  
6 increase the construction budget beyond what was estimated  
7 on the original carrier proposed site, (iii) the county has  
8 failed to provide an alternative site, or (iv) after a  
9 period of 90 days after receipt of the alternative site,  
10 the telecommunications carrier has failed, after acting in  
11 good faith and with due diligence, to obtain a lease or, at  
12 a minimum, a letter of intent to lease the alternative site  
13 at lease rates not materially greater than the lease rate  
14 for the original proposed site; then the carrier can  
15 proceed to permit and construct the site under the  
16 provisions and standards of Section 5-12001.1 of this Code.

17 (Source: P.A. 98-197, eff. 8-9-13; 98-756, eff. 7-16-14.)