



Rep. Kelly M. Burke

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1 AMENDMENT TO SENATE BILL 1451

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1451 by replacing  
3 everything after the enacting clause with the following:

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

1 access have a fair and predictable process for the deployment  
2 of small wireless facilities in a manner consistent with the  
3 character of the area in which the small wireless facilities  
4 are deployed, the General Assembly is enacting this Act, which  
5 specifies how local authorities may regulate the collocation of  
6 small wireless facilities.

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

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

10 "Antenna" means communications equipment that transmits or  
11 receives electromagnetic radio frequency signals used in the  
12 provision of wireless services.

13 "Applicable codes" means uniform building, fire,  
14 electrical, plumbing, or mechanical codes adopted by a  
15 recognized national code organization or local amendments to  
16 those codes, including the National Electric Safety Code.

17 "Applicant" means any person who submits an application and  
18 is a wireless provider.

19 "Application" means a request submitted by an applicant to  
20 an authority for a permit to collocate small wireless  
21 facilities, and a request that includes the installation of a  
22 new utility pole for such collocation, as well as any  
23 applicable fee for the review of such application.

24 "Authority" means a unit of local government that has

1 jurisdiction and control for use of public rights-of-way as  
2 provided by the Illinois Highway Code for placements within  
3 public rights-of-way or has zoning or land use control for  
4 placements not within public rights-of-way.

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

7 "Collocate" or "collocation" means to install, mount,  
8 maintain, modify, operate, or replace wireless facilities on or  
9 adjacent to a wireless support structure or utility pole.

10 "Communications service" means cable service, as defined  
11 in 47 U.S.C. 522(6), as amended; information service, as  
12 defined in 47 U.S.C. 153(24), as amended; telecommunications  
13 service, as defined in 47 U.S.C. 153(53), as amended; mobile  
14 service, as defined in 47 U.S.C. 153(33), as amended; or  
15 wireless service other than mobile service.

16 "Communications service provider" means a cable operator,  
17 as defined in 47 U.S.C. 522(5), as amended; a provider of  
18 information service, as defined in 47 U.S.C. 153(24), as  
19 amended; a telecommunications carrier, as defined in 47 U.S.C.  
20 153(51), as amended; or a wireless provider.

21 "FCC" means the Federal Communications Commission of the  
22 United States.

23 "Fee" means a one-time charge.

24 "Historic district" or "historic landmark" means a  
25 building, property, or site, or group of buildings, properties,  
26 or sites that are either (i) listed in the National Register of

1 Historic Places or formally determined eligible for listing by  
2 the Keeper of the National Register, the individual who has  
3 been delegated the authority by the federal agency to list  
4 properties and determine their eligibility for the National  
5 Register, in accordance with Section VI.D.1.a.i through  
6 Section VI.D.1.a.v of the Nationwide Programmatic Agreement  
7 codified at 47 CFR Part 1, Appendix C; or (ii) designated as a  
8 locally landmarked building, property, site, or historic  
9 district by an ordinance adopted by the authority pursuant to a  
10 preservation program that meets the requirements of the  
11 Certified Local Government Program of the Illinois State  
12 Historic Preservation Office or where such certification of the  
13 preservation program by the Illinois State Historic  
14 Preservation Office is pending.

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

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

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

24 "Person" means an individual, corporation, limited  
25 liability company, partnership, association, trust, or other  
26 entity or organization, including an authority.

1 "Public safety agency" means the functional division of the  
2 federal government, the State, a unit of local government, or a  
3 special purpose district located in whole or in part within  
4 this State, that provides or has authority to provide  
5 firefighting, police, ambulance, medical, or other emergency  
6 services to respond to and manage emergency incidents.

7 "Rate" means a recurring charge.

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

12 "Small wireless facility" means a wireless facility that  
13 meets both of the following qualifications: (i) each antenna is  
14 located inside an enclosure of no more than 6 cubic feet in  
15 volume or, in the case of an antenna that has exposed elements,  
16 the antenna and all of its exposed elements could fit within an  
17 imaginary enclosure of no more than 6 cubic feet; and (ii) all  
18 other wireless equipment attached directly to a utility pole  
19 associated with the facility is cumulatively no more than 25  
20 cubic feet in volume. The following types of associated  
21 ancillary equipment are not included in the calculation of  
22 equipment volume: electric meter, concealment elements,  
23 telecommunications demarcation box, ground-based enclosures,  
24 grounding equipment, power transfer switch, cut-off switch,  
25 and vertical cable runs for the connection of power and other  
26 services.

1 "Utility pole" means a pole or similar structure that is  
2 used in whole or in part by a communications service provider  
3 or for electric distribution, lighting, traffic control, or a  
4 similar function.

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

19 "Wireless infrastructure provider" means any person  
20 authorized to provide telecommunications service in the State  
21 that builds or installs wireless communication transmission  
22 equipment, wireless facilities, wireless support structures,  
23 or utility poles and that is not a wireless services provider  
24 but is acting as an agent or a contractor for a wireless  
25 services provider for the application submitted to the  
26 authority.

1 "Wireless provider" means a wireless infrastructure  
2 provider or a wireless services provider.

3 "Wireless services" means any services provided to the  
4 general public, including a particular class of customers, and  
5 made available on a nondiscriminatory basis using licensed or  
6 unlicensed spectrum, whether at a fixed location or mobile,  
7 provided using wireless facilities.

8 "Wireless services provider" means a person who provides  
9 wireless services.

10 "Wireless support structure" means a freestanding  
11 structure, such as a monopole; tower, either guyed or  
12 self-supporting; billboard; or other existing or proposed  
13 structure designed to support or capable of supporting wireless  
14 facilities. "Wireless support structure" does not include a  
15 utility pole.

16 Section 15. Regulation of small wireless facilities.

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

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

22 (c) Small wireless facilities shall be classified as  
23 permitted uses and subject to administrative review in  
24 conformance with this Act, except as provided in paragraph (5)  
25 of subsection (d) of this Section regarding height exceptions

1 or variances, but not subject to zoning review or approval if  
2 they are collocated (i) in rights-of-way in any zone, or (ii)  
3 outside rights-of-way in property zoned exclusively for  
4 commercial or industrial use.

5 (d) An authority may require an applicant to obtain one or  
6 more permits to collocate a small wireless facility. An  
7 authority shall receive applications for, process, and issue  
8 permits subject to the following requirements:

9 (1) An authority may not directly or indirectly require  
10 an applicant to perform services unrelated to the  
11 collocation for which approval is sought, such as in-kind  
12 contributions to the authority, including reserving fiber,  
13 conduit, or utility pole space for the authority on the  
14 wireless provider's utility pole. An authority may reserve  
15 space on authority utility poles for future public safety  
16 uses or for the authority's electric utility uses, but a  
17 reservation of space may not preclude the collocation of a  
18 small wireless facility unless the authority reasonably  
19 determines that the authority utility pole cannot  
20 accommodate both uses.

21 (2) An applicant shall not be required to provide more  
22 information to obtain a permit than the authority requires  
23 of a communications service provider that is not a wireless  
24 provider that requests to attach facilities to a structure;  
25 however, a wireless provider may be required to provide the  
26 following information when seeking a permit to collocate



1 small wireless facilities on a utility pole or wireless  
2 support structure:

3 (A) site specific structural integrity and, for an  
4 authority utility pole, make-ready analysis prepared  
5 by a structural engineer, as that term is defined in  
6 Section 4 of the Structural Engineering Practice Act of  
7 1989;

8 (B) the location where each proposed small  
9 wireless facility or utility pole would be installed  
10 and photographs of the location and its immediate  
11 surroundings depicting the utility poles or structures  
12 on which each proposed small wireless facility would be  
13 mounted or location where utility poles or structures  
14 would be installed;

15 (C) specifications and drawings prepared by a  
16 structural engineer, as that term is defined in Section  
17 4 of the Structural Engineering Practice Act of 1989,  
18 for each proposed small wireless facility covered by  
19 the application as it is proposed to be installed;

20 (D) the equipment type and model numbers for the  
21 antennas and all other wireless equipment associated  
22 with the small wireless facility;

23 (E) a proposed schedule for the installation and  
24 completion of each small wireless facility covered by  
25 the application, if approved; and

26 (F) certification that the collocation complies

1           with paragraph (6) to the best of the applicant's  
2           knowledge.

3           (3) Subject to paragraph (6), an authority may not  
4           require the placement of small wireless facilities on any  
5           specific utility pole, or category of utility poles, or  
6           require multiple antenna systems on a single utility pole;  
7           however, with respect to an application for the collocation  
8           of a small wireless facility associated with a new utility  
9           pole, an authority may propose that the small wireless  
10          facility be collocated on an existing utility pole or  
11          existing wireless support structure within 100 feet of the  
12          proposed collocation, which the applicant shall accept if  
13          it has the right to use the alternate structure on  
14          reasonable terms and conditions and the alternate location  
15          and structure does not impose technical limits or  
16          additional material costs as determined by the applicant.  
17          The authority may require the applicant to provide a  
18          written certification describing the property rights,  
19          technical limits or material cost reasons the alternate  
20          location does not satisfy the criteria in this paragraph  
21          (3).

22          (4) Subject to paragraph (6), an authority may not  
23          limit the placement of small wireless facilities mounted on  
24          a utility pole or a wireless support structure by minimum  
25          horizontal separation distances.

26          (5) An authority may limit the maximum height of a

1 small wireless facility to 10 feet above the utility pole  
2 or wireless support structure on which the small wireless  
3 facility is collocated. Subject to any applicable waiver,  
4 zoning, or other process that addresses wireless provider  
5 requests for an exception or variance and does not prohibit  
6 granting of such exceptions or variances, the authority may  
7 limit the height of new or replacement utility poles or  
8 wireless support structures on which small wireless  
9 facilities are collocated to the higher of: (i) 10 feet in  
10 height above the tallest existing utility pole, other than  
11 a utility pole supporting only wireless facilities, that is  
12 in place on the date the application is submitted to the  
13 authority, that is located within 300 feet of the new or  
14 replacement utility pole or wireless support structure and  
15 that is in the same right-of-way within the jurisdictional  
16 boundary of the authority, provided the authority may  
17 designate which intersecting right-of-way within 300 feet  
18 of the proposed utility pole or wireless support structures  
19 shall control the height limitation for such facility; or  
20 (ii) 45 feet above ground level.

21 (6) An authority may require that:

22 (A) the wireless provider's operation of the small  
23 wireless facilities does not interfere with the  
24 frequencies used by a public safety agency for public  
25 safety communications; a wireless provider shall  
26 install small wireless facilities of the type and

1 frequency that will not cause unacceptable  
2 interference with a public safety agency's  
3 communications equipment; unacceptable interference  
4 will be determined by and measured in accordance with  
5 industry standards and the FCC's regulations  
6 addressing unacceptable interference to public safety  
7 spectrum or any other spectrum licensed by a public  
8 safety agency; if a small wireless facility causes such  
9 interference, and the wireless provider has been given  
10 written notice of the interference by the public safety  
11 agency, the wireless provider, at its own expense,  
12 shall take all reasonable steps necessary to correct  
13 and eliminate the interference, including, but not  
14 limited to, powering down the small wireless facility  
15 and later powering up the small wireless facility for  
16 intermittent testing, if necessary; the authority may  
17 terminate a permit for a small wireless facility based  
18 on such interference if the wireless provider is not  
19 making a good faith effort to remedy the problem in a  
20 manner consistent with the abatement and resolution  
21 procedures for interference with public safety  
22 spectrum established by the FCC including 47 CFR 22.970  
23 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR  
24 90.675;

25 (B) the wireless provider comply with requirements  
26 that are imposed by a contract between an authority and

1 a private property owner that concern design or  
2 construction standards applicable to utility poles and  
3 ground-mounted equipment located in the right-of-way;

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

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

21 (E) the wireless provider comply with generally  
22 applicable standards that are consistent with this Act  
23 and adopted by an authority for construction and public  
24 safety in the rights-of-way, including, but not  
25 limited to, reasonable and nondiscriminatory wiring  
26 and cabling requirements, grounding requirements,

1 utility pole extension requirements, and signage  
2 limitations; and shall comply with reasonable and  
3 nondiscriminatory requirements that are consistent  
4 with this Act and adopted by an authority regulating  
5 the location, size, surface area and height of small  
6 wireless facilities, or the abandonment and removal of  
7 small wireless facilities;

8 (F) the wireless provider not collocate small  
9 wireless facilities on authority utility poles that  
10 are part of an electric distribution or transmission  
11 system within the communication worker safety zone of  
12 the pole or the electric supply zone of the pole;  
13 however, the antenna and support equipment of the small  
14 wireless facility may be located in the communications  
15 space on the authority utility pole and on the top of  
16 the pole, if not otherwise unavailable, if the wireless  
17 provider complies with applicable codes for work  
18 involving the top of the pole; for purposes of this  
19 subparagraph (F), the terms "communications space",  
20 "communication worker safety zone", and "electric  
21 supply zone" have the meanings given to those terms in  
22 the National Electric Safety Code as published by the  
23 Institute of Electrical and Electronics Engineers;

24 (G) the wireless provider comply with the  
25 applicable codes and local code provisions or  
26 regulations that concern public safety;

1 (H) the wireless provider comply with written  
2 design standards that are generally applicable for  
3 decorative utility poles, or reasonable stealth,  
4 concealment, and aesthetic requirements that are  
5 identified by the authority in an ordinance, written  
6 policy adopted by the governing board of the authority,  
7 a comprehensive plan, or other written design plan that  
8 applies to other occupiers of the rights-of-way,  
9 including on a historic landmark or in a historic  
10 district; and

11 (I) subject to subsection (c) of this Section, and  
12 except for facilities excluded from evaluation for  
13 effects on historic properties under 47 CFR  
14 1.1307(a)(4), reasonable, technically feasible and  
15 non-discriminatory design or concealment measures in a  
16 historic district or historic landmark; any such  
17 design or concealment measures, including restrictions  
18 on a specific category of poles, may not have the  
19 effect of prohibiting any provider's technology; such  
20 design and concealment measures shall not be  
21 considered a part of the small wireless facility for  
22 purposes of the size restrictions of a small wireless  
23 facility; this paragraph may not be construed to limit  
24 an authority's enforcement of historic preservation in  
25 conformance with the requirements adopted pursuant to  
26 the Illinois State Agency Historic Resources

1           Preservation Act or the National Historic Preservation  
2           Act of 1966, 54 U.S.C. Section 300101 et seq., and the  
3           regulations adopted to implement those laws.

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

17          (8) An authority shall process applications as  
18          follows:

19                 (A) an application to collocate a small wireless  
20                 facility on an existing utility pole or wireless  
21                 support structure shall be processed on a  
22                 nondiscriminatory basis and deemed approved if the  
23                 authority fails to approve or deny the application  
24                 within 90 days; however, if an applicant intends to  
25                 proceed with the permitted activity on a deemed  
26                 approved basis, the applicant must notify the



1 authority in writing of its intention to invoke the  
2 deemed approved remedy no sooner than 75 days after the  
3 submission of a completed application; the permit  
4 shall be deemed approved on the latter of the 90th day  
5 after submission of the complete application or the  
6 10th day after the receipt of the deemed approved  
7 notice by the authority; the receipt of the deemed  
8 approved notice shall not preclude the authority's  
9 denial of the permit request within the time limits as  
10 provided under this Act; and

11 (B) an application to collocate a small wireless  
12 facility that includes the installation of a new  
13 utility pole shall be processed on a nondiscriminatory  
14 basis and deemed approved if the authority fails to  
15 approve or deny the application within 120 days;  
16 however, if an applicant intends to proceed with the  
17 permitted activity on a deemed approved basis, the  
18 applicant must notify the authority in writing of its  
19 intention to invoke the deemed approved remedy no  
20 sooner than 105 days after the submission of a  
21 completed application; the permit shall be deemed  
22 approved on the latter of the 120th day after  
23 submission of the complete application or the 10th day  
24 after the receipt of the deemed approved notice by the  
25 authority; the receipt of the deemed approved notice  
26 shall not preclude the authority's denial of the permit

1 request within the time limits as provided under this  
2 Act.

3 (9) An authority shall approve an application unless  
4 the application does not meet the requirements of this Act.  
5 If an authority determines that applicable codes, local  
6 code provisions or regulations that concern public safety,  
7 or the requirements of paragraph (6) require that the  
8 utility pole or wireless support structure be replaced  
9 before the requested collocation, approval may be  
10 conditioned on the replacement of the utility pole or  
11 wireless support structure at the cost of the provider. The  
12 authority must document the basis for a denial, including  
13 the specific code provisions or application conditions on  
14 which the denial was based, and send the documentation to  
15 the applicant on or before the day the authority denies an  
16 application. The applicant may cure the deficiencies  
17 identified by the authority and resubmit the revised  
18 application once within 30 days after notice of denial is  
19 sent to the applicant without paying an additional  
20 application fee. The authority shall approve or deny the  
21 revised application within 30 days after the applicant  
22 resubmits the application or it is deemed approved;  
23 however, the applicant must notify the authority in writing  
24 of its intention to proceed with the permitted activity on  
25 a deemed approved basis, which may be submitted with the  
26 resubmitted application. Any subsequent review shall be

1 limited to the deficiencies cited in the denial. However,  
2 this revised application cure does not apply if the cure  
3 requires the review of a new location, new or different  
4 structure to be collocated upon, new antennas, or other  
5 wireless equipment associated with the small wireless  
6 facility.

7 (10) The time period for applications may be further  
8 tolled by:

9 (A) the express agreement in writing by both the  
10 applicant and the authority; or

11 (B) a local, State, or federal disaster  
12 declaration or similar emergency that causes the  
13 delay.

14 (11) An applicant seeking to collocate small wireless  
15 facilities within the jurisdiction of a single authority  
16 shall be allowed, at the applicant's discretion, to file a  
17 consolidated application and receive a single permit for  
18 the collocation of up to 25 small wireless facilities if  
19 the collocations each involve substantially the same type  
20 of small wireless facility and substantially the same type  
21 of structure. If an application includes multiple small  
22 wireless facilities, the authority may remove small  
23 wireless facility collocations from the application and  
24 treat separately small wireless facility collocations for  
25 which incomplete information has been provided or that do  
26 not qualify for consolidated treatment or that are denied.

1 The authority may issue separate permits for each  
2 collocation that is approved in a consolidated  
3 application.

4 (12) Collocation for which a permit is granted shall be  
5 completed within 180 days after issuance of the permit,  
6 unless the authority and the wireless provider agree to  
7 extend this period or a delay is caused by make-ready work  
8 for an authority utility pole or by the lack of commercial  
9 power or backhaul availability at the site, provided the  
10 wireless provider has made a timely request within 60 days  
11 after the issuance of the permit for commercial power or  
12 backhaul services, and the additional time to complete  
13 installation does not exceed 360 days after issuance of the  
14 permit. Otherwise, the permit shall be void unless the  
15 authority grants an extension in writing to the applicant.

16 (13) The duration of a permit shall be for a period of  
17 not less than 5 years, and the permit shall be renewed for  
18 equivalent durations unless the authority makes a finding  
19 that the small wireless facilities or the new or modified  
20 utility pole do not comply with the applicable codes or  
21 local code provisions or regulations in paragraphs (6) and  
22 (9). If this Act is repealed as provided in Section 90,  
23 renewals of permits shall be subject to the applicable  
24 authority code provisions or regulations in effect at the  
25 time of renewal.

26 (14) An authority may not prohibit, either expressly or

1 de facto, the (i) filing, receiving, or processing  
2 applications, or (ii) issuing of permits or other  
3 approvals, if any, for the collocation of small wireless  
4 facilities unless there has been a local, State, or federal  
5 disaster declaration or similar emergency that causes the  
6 delay.

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

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

17 (1) An authority may charge an application fee of up to  
18 \$650 for an application to collocate a single small  
19 wireless facility on an existing utility pole or wireless  
20 support structure and up to \$350 for each small wireless  
21 facility addressed in an application to collocate more than  
22 one small wireless facility on existing utility poles or  
23 wireless support structures.

24 (2) An authority may charge an application fee of  
25 \$1,000 for each small wireless facility addressed in an  
26 application that includes the installation of a new utility

1 for such collocation.

2 (3) Notwithstanding any contrary provision of State  
3 law or local ordinance, applications pursuant to this  
4 Section must be accompanied by the required application  
5 fee.

6 (4) Within 2 months after the effective date of this  
7 Act, an authority shall make available application fees  
8 consistent with this subsection, through ordinance, or in a  
9 written schedule of permit fees adopted by the authority.

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 if  
16 the wireless provider notifies the authority at least 10 days  
17 prior to the planned replacement and includes equipment  
18 specifications for the replacement of equipment consistent  
19 with the requirements of subparagraph (D) of paragraph (2) of  
20 subsection (d) of this Section; or (iii) the installation,  
21 placement, maintenance, operation, or replacement of micro  
22 wireless facilities that are suspended on cables that are  
23 strung between existing utility poles in compliance with  
24 applicable safety codes. However, an authority may require a  
25 permit to work within rights-of-way for activities that affect  
26 traffic patterns or require lane closures.

1 (g) Nothing in this Act authorizes a person to collocate  
2 small wireless facilities on: (1) property owned by a private  
3 party or property owned or controlled by a unit of local  
4 government that is not located within rights-of-way, subject to  
5 subsection (j) of this Section, or a privately owned utility  
6 pole or wireless support structure without the consent of the  
7 property owner; (2) property owned, leased, or controlled by a  
8 park district, forest preserve district, or conservation  
9 district for public park, recreation, or conservation purposes  
10 without the consent of the affected district, excluding the  
11 placement of facilities on rights-of-way located in an affected  
12 district that are under the jurisdiction and control of a  
13 different unit of local government as provided by the Illinois  
14 Highway Code; or (3) property owned by a rail carrier  
15 registered under Section 18c-7201 of the Illinois Vehicle Code,  
16 Metra Commuter Rail or any other public commuter rail service,  
17 or an electric utility as defined in Section 16-102 of the  
18 Public Utilities Act, without the consent of the rail carrier,  
19 public commuter rail service, or electric utility. The  
20 provisions of this Act do not apply to an electric or gas  
21 public utility or such utility's wireless facilities if the  
22 facilities are being used, developed, and maintained  
23 consistent with the provisions of subsection (i) of Section  
24 16-108.5 of the Public Utilities Act.

25 For the purposes of this subsection, "public utility" has  
26 the meaning given to that term in Section 3-105 of the Public

1 Utilities Act. Nothing in this Act shall be construed to  
2 relieve any person from any requirement (1) to obtain a  
3 franchise or a State-issued authorization to offer cable  
4 service or video service or (2) to obtain any required  
5 permission to install, place, maintain, or operate  
6 communications facilities, other than small wireless  
7 facilities subject to this Act.

8 (h) Agreements between authorities and wireless providers  
9 that relate to the collocation of small wireless facilities in  
10 the right-of-way, including the collocation of small wireless  
11 facilities on authority utility poles, that are in effect on  
12 the effective date of this Act remain in effect for all small  
13 wireless facilities collocated on the authority's utility  
14 poles pursuant to applications submitted to the authority  
15 before the effective date of this Act, subject to applicable  
16 termination provisions. Such agreements entered into after the  
17 effective date of the Act shall comply with the Act.

18 (i) An authority shall allow the collocation of small  
19 wireless facilities on authority utility poles subject to the  
20 following:

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

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



1           (3) An authority may charge an annual recurring rate to  
2           collocate a small wireless facility on an authority utility  
3           pole located in a right-of-way that equals (i) \$200 per  
4           year or (ii) the actual, direct, and reasonable costs  
5           related to the wireless provider's use of space on the  
6           authority utility pole. Rates for collocation on authority  
7           utility poles located outside of a right-of-way are not  
8           subject to these limitations. In any controversy  
9           concerning the appropriateness of a cost-based rate for an  
10          authority utility pole located within a right-of-way, the  
11          authority shall have the burden of proving that the rate  
12          does not exceed the actual, direct, and reasonable costs  
13          for the applicant's proposed use of the authority utility  
14          pole. Nothing in this paragraph (3) prohibits a wireless  
15          provider and an authority from mutually agreeing to an  
16          annual recurring rate of less than \$200 to collocate a  
17          small wireless facility on an authority utility pole.

18          (4) Authorities or other persons owning or controlling  
19          authority utility poles within the right-of-way shall  
20          offer rates, fees, and other terms that comply with  
21          subparagraphs (A) through (E) of this paragraph (4). Within  
22          2 months after the effective date of this Act, an authority  
23          or a person owning or controlling authority utility poles  
24          shall make available, through ordinance or an authority  
25          utility pole attachment agreement, license or other  
26          agreement that makes available to wireless providers, the

1 rates, fees, and terms for the collocation of small  
2 wireless facilities on authority utility poles that comply  
3 with this Act and with subparagraphs (A) through (E) of  
4 this paragraph (4). In the absence of such an ordinance or  
5 agreement that complies with this Act, and until such a  
6 compliant ordinance or agreement is adopted, wireless  
7 providers may collocate small wireless facilities and  
8 install utility poles under the requirements of this Act.

9 (A) The rates, fees, and terms must be  
10 nondiscriminatory, competitively neutral, and  
11 commercially reasonable, and may address, among other  
12 requirements, the requirements in subparagraphs (A)  
13 through (I) of paragraph (6) of subsection (d) of this  
14 Section; subsections (e), (i), and (k) of this Section;  
15 Section 30; and Section 35, and must comply with this  
16 Act.

17 (B) For authority utility poles that support  
18 aerial facilities used to provide communications  
19 services or electric service, wireless providers shall  
20 comply with the process for make-ready work under 47  
21 U.S.C. 224 and its implementing regulations, and the  
22 authority shall follow a substantially similar process  
23 for make-ready work except to the extent that the  
24 timing requirements are otherwise addressed in this  
25 Act. The good-faith estimate of the person owning or  
26 controlling the authority utility pole for any

1 make-ready work necessary to enable the pole to support  
2 the requested collocation shall include authority  
3 utility pole replacement, if necessary.

4 (C) For authority utility poles that do not support  
5 aerial facilities used to provide communications  
6 services or electric service, the authority shall  
7 provide a good-faith estimate for any make-ready work  
8 necessary to enable the authority utility pole to  
9 support the requested collocation, including pole  
10 replacement, if necessary, within 90 days after  
11 receipt of a complete application. Make-ready work,  
12 including any authority utility pole replacement,  
13 shall be completed within 60 days of written acceptance  
14 of the good-faith estimate by the applicant at the  
15 wireless provider's sole cost and expense.  
16 Alternatively, if the authority determines that  
17 applicable codes or public safety regulations require  
18 the authority utility pole to be replaced to support  
19 the requested collocation, the authority may require  
20 the wireless provider to replace the authority utility  
21 pole at the wireless provider's sole cost and expense.

22 (D) The authority shall not require more  
23 make-ready work than required to meet applicable codes  
24 or industry standards. Make-ready work may include  
25 work needed to accommodate additional public safety  
26 communications needs that are identified in a

1 documented and approved plan for the deployment of  
2 public safety equipment as specified in paragraph (1)  
3 of subsection (d) of this Section and included in an  
4 existing or preliminary authority or public service  
5 agency budget for attachment within one year of the  
6 application. Fees for make-ready work, including any  
7 authority utility pole replacement, shall not exceed  
8 actual costs or the amount charged to communications  
9 service providers for similar work and shall not  
10 include any consultants' fees or expenses for  
11 authority utility poles that do not support aerial  
12 facilities used to provide communications services or  
13 electric service. Make-ready work, including any pole  
14 replacement, shall be completed within 60 days of  
15 written acceptance of the good-faith estimate by the  
16 wireless provider, at its sole cost and expense.

17 (E) A wireless provider that has an existing  
18 agreement with the authority on the effective date of  
19 the Act may accept the rates, fees, and terms that an  
20 authority makes available under this Act for the  
21 collocation of small wireless facilities or the  
22 installation of new utility poles for the collocation  
23 of small wireless facilities that are the subject of an  
24 application submitted 2 or more years after the  
25 effective date of the Act as provided in this paragraph  
26 (4) by notifying the authority that it opts to accept

1           such rates, fees, and terms. The existing agreement  
2           remains in effect, subject to applicable termination  
3           provisions, for the small wireless facilities the  
4           wireless provider has collocated on the authority's  
5           utility poles pursuant to applications submitted to  
6           the authority before the wireless provider provides  
7           such notice and exercises its option under this  
8           subparagraph.

9           (j) An authority shall authorize the collocation of small  
10          wireless facilities on utility poles owned or controlled by the  
11          authority that are not located within rights-of-way to the same  
12          extent the authority currently permits access to utility poles  
13          for other commercial projects or uses. The collocations shall  
14          be subject to reasonable and nondiscriminatory rates, fees, and  
15          terms as provided in an agreement between the authority and the  
16          wireless provider.

17          (k) Nothing in this Section precludes an authority from  
18          adopting reasonable rules with respect to the removal of  
19          abandoned small wireless facilities. A small wireless facility  
20          that is not operated for a continuous period of 12 months shall  
21          be considered abandoned and the owner of the facility must  
22          remove the small wireless facility within 90 days after receipt  
23          of written notice from the authority notifying the owner of the  
24          abandonment. The notice shall be sent by certified or  
25          registered mail, return receipt requested, by the authority to  
26          the owner at the last known address of the owner. If the small

1 wireless facility is not removed within 90 days of such notice,  
2 the authority may remove or cause the removal of the such  
3 facility pursuant to the terms of its pole attachment agreement  
4 for authority utility poles or through whatever actions are  
5 provided for abatement of nuisances or by other law for removal  
6 and cost recovery. An authority may require a wireless provider  
7 to provide written notice to the authority if it sells or  
8 transfers small wireless facilities subject to this Act within  
9 the jurisdictional boundary of the authority. Such notice shall  
10 include the name and contact information of the new wireless  
11 provider.

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

1 provider to install its own utility pole so it can maintain  
2 service from that location.

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

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

1 rates to be determined upon final resolution of the dispute.

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

17 Section 35. Insurance.

18 (a) Except for a wireless provider with an existing  
19 franchise to occupy and operate in the rights-of-way, during  
20 the period in which the wireless provider's facilities are  
21 located on the authority improvements or rights-of-way, the  
22 authority may require the wireless provider to carry, at the  
23 wireless provider's own cost and expense, the following  
24 insurance: (i) property insurance for its property's



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

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

22 Section 40. Home rule. A home rule unit may not regulate  
23 small wireless facilities in a manner inconsistent with this  
24 Act. This Section is a limitation under subsection (i) of  
25 Section 6 of Article VII of the Illinois Constitution on the

1 concurrent exercise by home rule units of powers and functions  
2 exercised by the State.

3 Section 90. Repeal. This Act is repealed on June 1, 2021.

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

6 (55 ILCS 5/5-12001.2)

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

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

20 (b) The county shall have 7 days to review the facility  
21 proposal and contact the telecommunications carrier in  
22 writing via e-mail or other written means as specified by  
23 the telecommunications carrier. This written communication

1 shall either approve the proposed location or request a  
2 meeting to review other possible alternative locations. If  
3 requested, the meeting shall take place within 7 days after  
4 the date of the written communication.

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

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

21 (e) If the county's proposed alternative site meets the  
22 radio frequency engineering criteria provided by the  
23 telecommunications carrier, and will not materially  
24 increase the construction budget beyond what was estimated  
25 on the original carrier proposed site, then the  
26 telecommunications carrier shall agree to build the

1 facility at the alternative location, subject to the  
2 negotiation of a lease with commercially reasonable terms  
3 and the obtainment of the customary building permits.

4 (f) If the telecommunications carrier can demonstrate  
5 that: (i) the county's proposed alternative site does not  
6 meet the radio frequency engineering criteria, (ii) the  
7 county's proposed alternative site will materially  
8 increase the construction budget beyond what was estimated  
9 on the original carrier proposed site, (iii) the county has  
10 failed to provide an alternative site, or (iv) after a  
11 period of 90 days after receipt of the alternative site,  
12 the telecommunications carrier has failed, after acting in  
13 good faith and with due diligence, to obtain a lease or, at  
14 a minimum, a letter of intent to lease the alternative site  
15 at lease rates not materially greater than the lease rate  
16 for the original proposed site; then the carrier can  
17 proceed to permit and construct the site under the  
18 provisions and standards of Section 5-12001.1 of this Code.  
19 (Source: P.A. 98-197, eff. 8-9-13; 98-756, eff. 7-16-14.)".