



Sen. Terry Link

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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 10. Definitions. As used in this Act:

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

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

15 "Applicant" means any person who submits an application and
16 is a wireless provider.

17 "Application" means a request submitted by an applicant to
18 an authority for a permit to collocate small wireless
19 facilities as well as any applicable fee for the review of such
20 application.

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

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

3 "Collocate" or "collocation" means to install, mount,
4 maintain, modify, operate, or replace wireless facilities on or
5 adjacent to a wireless support structure or utility pole.

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

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

17 "FCC" means the Federal Communications Commission of the
18 United States.

19 "Fee" means a one-time charge.

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

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

26 "Permit" means a written authorization required by an

1 authority to perform an action or initiate, continue, or
2 complete a project.

3 "Person" means an individual, corporation, limited
4 liability company, partnership, association, trust, or other
5 entity or organization, including an authority.

6 "Rate" means a recurring charge.

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

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

25 "Utility pole" means a pole or similar structure that is
26 used in whole or in part by a communications service provider

1 or for electric distribution, lighting, traffic control,
2 signage, or a similar function.

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

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

23 "Wireless provider" means a wireless infrastructure
24 provider or a wireless services provider.

25 "Wireless services" means any services provided using
26 licensed or unlicensed spectrum, whether at a fixed location or

1 mobile, provided using wireless facilities.

2 "Wireless services provider" means a person who provides
3 wireless services.

4 "Wireless support structure" means a freestanding
5 structure, such as a monopole; tower, either guyed or
6 self-supporting; billboard; or other existing or proposed
7 structure designed to support or capable of supporting wireless
8 facilities. "Wireless support structure" does not include a
9 utility pole.

10 Section 15. Regulation of small wireless facilities.

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

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

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

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

1 (1) An authority may not directly or indirectly require
2 an applicant to perform services unrelated to the
3 collocation for which approval is sought, such as in-kind
4 contributions to the authority, including reserving fiber,
5 conduit, or pole space for the authority on the wireless
6 provider's utility pole. An authority may reserve space on
7 authority utility poles for future public safety uses or
8 for the authority's electric utility uses, but a
9 reservation of space may not preclude the collocation of a
10 small wireless facility if the authority utility pole can
11 accommodate both uses.

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

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

23 (B) the location where each proposed small
24 wireless facility or utility pole would be installed
25 and photographs of the location and its immediate
26 surroundings depicting the poles or structures on

1 which each proposed small wireless facility would be
2 mounted or location where utility poles or structures
3 would be installed;

4 (C) specifications and drawings prepared by a
5 structural engineer, as that term is defined in Section
6 4 of the Structural Engineering Practice Act of 1989,
7 for each proposed small wireless facility covered by
8 the application as it is proposed to be installed;

9 (D) a proposed schedule for the installation and
10 completion of each small wireless facility covered by
11 the application, if approved; and

12 (E) certification that the collocation complies
13 with paragraph (6) to the best of the applicant's
14 knowledge.

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

1 does not impose technical limits or additional material
2 costs as determined by the applicant.

3 (4) Subject to paragraph (6), an authority may not
4 limit the placement of pole-mounted small wireless
5 facilities by minimum horizontal separation distances.

6 (5) An authority may limit the maximum height of a
7 small wireless facility to 10 feet above the utility pole
8 or wireless support structure on which the small wireless
9 facility is collocated. Subject to any exception process in
10 an authority's zoning ordinance, the authority may limit
11 the height of new or replacement utility poles or wireless
12 support structures on which small wireless facilities are
13 collocated to the higher of: (i) 10 feet in height above
14 the tallest existing utility pole, other than a utility
15 pole supporting only wireless facilities, that is in place
16 on the date the application is submitted to the authority,
17 that is located within 500 feet of the new or replacement
18 wireless support structure and that is in the same right of
19 way within the jurisdictional boundary of the authority; 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 in the right-of-way does not
24 interfere with the frequencies used by the authority's
25 public safety communications;

26 (B) the wireless provider comply with requirements

1 that are imposed by a contract between an authority and
2 a private property owner that concern design or
3 construction standards applicable to utility poles and
4 ground-mounted equipment located in the right-of-way;

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

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

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

25 (F) a wireless provider not collocate small
26 wireless facilities on authority utility poles that

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

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

1 missing information.

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

17 (9) An authority shall approve an application unless
18 the application does not meet the applicable codes, local
19 code provisions or regulations that concern public safety,
20 written design standards that are generally applicable for
21 decorative utility poles or reasonable stealth and
22 concealment requirements, and the requirements of
23 paragraph (6). If an authority determines that applicable
24 codes, local code provisions or regulations, or the
25 requirements of paragraph (6) require that the utility pole
26 or wireless support structure be replaced before the

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

19 (10) The time period for applications may be further
20 tolled by:

21 (A) the express agreement in writing by both the
22 applicant and the authority; or

23 (B) a local, State, or federal disaster
24 declaration or similar emergency that causes the
25 delay.

26 (11) An applicant seeking to collocate small wireless

1 facilities within the jurisdiction of a single authority
2 shall be allowed, at the applicant's discretion, to file a
3 consolidated application and receive a single permit for
4 the collocation of up to 25 small wireless facilities if
5 the collocations each involve substantially the same type
6 of small wireless facility and substantially the same type
7 of structure. If an application includes multiple small
8 wireless facilities, the authority may remove small
9 wireless facility collocations from the application and
10 treat separately small wireless facility collocations for
11 which incomplete information has been provided or that do
12 not qualify for consolidated treatment or that are denied.
13 The authority may issue separate permits for each
14 collocation that is approved in a consolidated
15 application.

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

24 (13) The duration of a permit shall be for a period of
25 not less than 10 years, and the permit shall be renewed for
26 equivalent durations unless the authority makes a finding

1 that the small wireless facilities or the new or modified
2 utility pole do not comply with the applicable codes or
3 local code provisions or regulations in paragraphs (6) and
4 (9).

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

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

20 (e) Application fees are subject to the following
21 requirements:

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

25 (2) An authority shall only charge fees for the actual,
26 direct, and reasonable costs incurred by the authority

1 relating to the granting or processing of an application.
2 The fees shall be reasonably related in time to the
3 incurring of such costs. Where the costs are already
4 recovered by existing fees, rates, or taxes paid by a
5 wireless provider, no application fee shall be assessed to
6 recover the costs.

7 (3) A fee may not include: (i) travel expenses incurred
8 by a third party in its review of an application; or (ii)
9 direct payment or reimbursement of fees charged on a
10 contingency basis or a result-based arrangement.

11 (4) Total application fees, where permitted, shall not
12 exceed the lesser of: (i) the amount charged by the
13 authority for a building permit for any similar commercial
14 construction, activity, or land use development; or (ii)
15 \$100 each for up to 5 small wireless facilities addressed
16 in an application and \$50 for each additional small
17 wireless facility addressed in the application.

18 (f) An authority shall not require an application,
19 approval, or permit, or require any fees or other charges, by a
20 communications service provider authorized to occupy the
21 rights-of-way, for: (i) routine maintenance; (ii) the
22 replacement of wireless facilities with wireless facilities
23 that are substantially similar, the same size, or smaller; or
24 (iii) the installation, placement, maintenance, operation, or
25 replacement of micro wireless facilities that are suspended on
26 cables that are strung between existing utility poles in

1 compliance with applicable safety codes. However, an authority
2 may require a permit to work within rights-of-way for
3 activities that affect traffic patterns or require lane
4 closures. Any permits for work within rights-of-way shall be
5 subject to the requirements provided in this Section.

6 (g) Nothing in this Act authorizes a person to collocate
7 small wireless facilities on: (1) private property or a
8 privately owned utility pole or wireless support structure
9 without the consent of the property owner; (2) property owned,
10 leased, or controlled by a park district, forest preserve
11 district, or conservation district for public park,
12 recreation, or conservation purposes without the consent of the
13 affected district, excluding the placement of facilities on
14 rights-of-way located in an affected district that are under
15 the jurisdiction and control of a different unit of local
16 government as provided by the Illinois Highway Code; or (3)
17 property owned by a rail carrier registered under Section
18 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or
19 any other public commuter rail service, or an electric utility
20 as defined in Section 16-102 of the Public Utilities Act,
21 without the consent of the rail carrier, public commuter rail
22 service, or electric utility.

23 (h) Agreements between authorities and wireless providers
24 that relate to the collocation of small wireless facilities in
25 the right-of-way, including the collocation of small wireless
26 facilities on authority utility poles, that are in effect

1 before the wireless provider accepts rates or fees under this
2 Act remain in effect for all small wireless facilities
3 collocated on the authority's utility poles pursuant to
4 applications submitted to the authority before the effective
5 date of this Act, subject to applicable termination provisions.
6 The wireless provider may accept the rates, fees, and terms
7 provided under this Act for the collocation of small wireless
8 facilities that are the subject of an application submitted
9 after the rates, fees, and terms become effective.

10 (i) An authority shall allow the collocation of small
11 wireless facilities on authority utility poles subject to the
12 following:

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

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

19 (3) The rate to collocate on authority utility poles
20 may not exceed the annual recurring rate that would be
21 permitted under rules adopted by the FCC under 47 U.S.C.
22 224(e) if the rates were regulated by the FCC or \$20 per
23 year per authority utility pole, whichever is less.

24 (4) If an authority has an existing pole attachment
25 rate, fee, or other term that does not comply with the
26 requirements in this Section, the authority shall, no later

1 than 6 months after the effective date of this Act, reform
2 the rate, fee, or term in compliance with this Section.

3 (5) Authorities or other persons owning or controlling
4 authority utility poles shall offer rates, fees, and other
5 terms that comply with subparagraphs (A) through (D) of
6 this paragraph (5). Within 6 months after the effective
7 date of this Act or 3 months after receiving a request to
8 collocate its first small wireless facility on an authority
9 utility pole, whichever is later, a person owning or
10 controlling authority utility poles shall make available,
11 through ordinance or otherwise, the rates, fees, and terms
12 for the collocation of small wireless facilities on such
13 poles that comply with subparagraphs (A) through (D) of
14 this paragraph (5).

15 (A) The rates, fees, and terms must be
16 nondiscriminatory, competitively neutral, and
17 commercially reasonable and must comply with this
18 subsection (i).

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

1 Act. The good-faith estimate of the person owning or
2 controlling the pole for any make-ready work necessary
3 to enable the pole to support the requested collocation
4 shall include pole replacement, if necessary.

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

21 (D) The authority shall not require more
22 make-ready work than required to meet applicable codes
23 or industry standards. Fees for make-ready work,
24 including any pole replacement, shall not exceed
25 actual costs or the amount charged to communications
26 service providers for similar work and shall not

1 include any consultants' fees or expenses for
2 authority utility poles that do not support aerial
3 facilities used to provide communications services or
4 electric service.

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

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

23 (l) Nothing in this Section requires an authority to
24 install or maintain any specific utility pole or to continue to
25 install or maintain utility poles in any location if the
26 authority makes a non-discriminatory decision to eliminate

1 above-ground utility poles of a particular type generally, such
2 as electric utility poles, in all or a significant portion of
3 its geographic jurisdiction. For authority utility poles with
4 collocated small wireless facilities in place when an authority
5 makes a decision to eliminate above-ground utility poles of a
6 particular type generally, the authority shall either (i)
7 continue to maintain the authority utility pole or install and
8 maintain a reasonable alternative utility pole or wireless
9 support structure for the collocation of the small wireless
10 facility, or (ii) offer to sell the utility pole to the
11 wireless provider at a reasonable cost or allow the wireless
12 provider to install its own utility pole so it can maintain
13 service from that location.

14 Section 20. Local authority. Subject to this Act and
15 applicable federal law, an authority may continue to exercise
16 zoning, land use, planning, and permitting authority within its
17 territorial boundaries, including with respect to wireless
18 support structures and utility poles; except that no authority
19 shall have or exercise any jurisdiction or authority over the
20 design, engineering, construction, installation, or operation
21 of any small wireless facility located in an interior structure
22 or upon the site of any campus, stadium, or athletic facility
23 not otherwise owned or controlled by the authority, other than
24 to comply with applicable codes and local code provisions
25 concerning public safety. Nothing in this Act authorizes the

1 State or any political subdivision, including an authority, to
2 require wireless facility deployment or to regulate wireless
3 services.

4 Section 25. Dispute resolution. A circuit court has
5 jurisdiction to resolve all disputes arising under this Act.
6 Pending resolution of a dispute concerning rates for
7 collocation of small wireless facilities on authority utility
8 poles, the authority shall allow the collocating person to
9 collocate on its poles at annual rates of no more than \$20 per
10 year per utility pole, with rates to be determined upon final
11 resolution of the dispute.

12 Section 30. Indemnification. A wireless provider shall
13 indemnify and hold an authority harmless against any and all
14 liability or loss from personal injury or property damage
15 resulting from or arising out of, in whole or in part, the use
16 or occupancy of the authority improvements or right-of-way
17 associated with such improvements by the wireless provider or
18 its employees, agents, or contractors arising out of the rights
19 and privileges granted under this Act. A wireless provider has
20 no obligation to indemnify or hold harmless against any
21 liabilities and losses as may be due to or caused by the sole
22 negligence of the authority or its employees or agents. A
23 wireless provider shall further waive any claims that they may
24 have against an authority with respect to consequential,

1 incidental, or special damages, however caused, based on the
2 theory of liability.

3 Section 35. Insurance.

4 (a) During the period in which the wireless provider's
5 facilities are located on the authority improvements or
6 rights-of-way, the authority may require the wireless provider
7 to carry, at the wireless provider's own cost and expense, the
8 following insurance: (i) property insurance for its property's
9 replacement cost against all risks; (ii) workers' compensation
10 insurance, as required by law; or (iii) commercial general
11 liability insurance with respect to its activities on the
12 authority improvements or rights-of-way to afford minimum
13 protection limits consistent with its requirements of other
14 users of authority improvements or rights-of-way, including
15 coverage for bodily injury and property damage. An authority
16 may require a wireless provider to include the authority as an
17 additional insured on the commercial general liability policy
18 and provide certification and documentation of inclusion of the
19 authority in a commercial general liability policy as
20 reasonably required by the authority.

21 (b) A wireless provider may self-insure all or a portion of
22 the insurance coverage and limit requirements required by an
23 authority. A wireless provider that self-insures is not
24 required, to the extent of the self-insurance, to comply with
25 the requirement for the naming of additional insureds under

1 this Section. A wireless provider that elects to self-insure
2 shall provide to the authority evidence sufficient to
3 demonstrate its financial ability to self-insure the insurance
4 coverage and limits required by the authority.

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

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

13 (55 ILCS 5/5-12001.2)

14 Sec. 5-12001.2. Regulation of telecommunications
15 facilities; Lake County pilot project. In addition to any other
16 requirements under this Division concerning the regulation of
17 telecommunications facilities and except as provided by the
18 Small Wireless Facilities Deployment Act, the following
19 applies to any new telecommunications facilities in Lake County
20 that are not AM telecommunications towers or facilities:

21 (a) For every new wireless telecommunications facility
22 requiring a new tower structure, a telecommunications
23 carrier shall provide the county with documentation

1 consisting of the proposed location, a site plan, and an
2 elevation that sufficiently describes a proposed wireless
3 facility location.

4 (b) The county shall have 7 days to review the facility
5 proposal and contact the telecommunications carrier in
6 writing via e-mail or other written means as specified by
7 the telecommunications carrier. This written communication
8 shall either approve the proposed location or request a
9 meeting to review other possible alternative locations. If
10 requested, the meeting shall take place within 7 days after
11 the date of the written communication.

12 (c) At the meeting, the telecommunications carrier
13 shall provide the county documentation consisting of radio
14 frequency engineering criteria and a corresponding
15 telecommunications facility search ring map, together with
16 documentation of the carrier's efforts to site the proposed
17 facility within the telecommunications facility search
18 ring.

19 (d) Within 21 days after receipt of the carrier's
20 documentation, the county shall propose either an
21 alternative site within the telecommunications facility
22 search ring, or an alternative site outside of the
23 telecommunications search ring that meets the radio
24 frequency engineering criteria provided by the
25 telecommunications carrier and that will not materially
26 increase the construction budget beyond what was estimated

1 on the original carrier proposed site.

2 (e) If the county's proposed alternative site meets the
3 radio frequency engineering criteria provided by the
4 telecommunications carrier, and will not materially
5 increase the construction budget beyond what was estimated
6 on the original carrier proposed site, then the
7 telecommunications carrier shall agree to build the
8 facility at the alternative location, subject to the
9 negotiation of a lease with commercially reasonable terms
10 and the obtainment of the customary building permits.

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

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