



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 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 as well as any applicable fee for the review of such  
22 application.

23 "Authority" means a unit of local government that has  
24 jurisdiction and control for use of public rights-of-way as

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

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

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

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

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

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

22 "Fee" means a one-time charge.

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

25 "Micro wireless facility" means a small wireless facility  
26 that is not larger in dimension than 24 inches in length, 15

1 inches in width, and 12 inches in height and that has an  
2 exterior antenna, if any, no longer than 11 inches.

3 "Permit" means a written authorization required by an  
4 authority to perform an action or initiate, continue, or  
5 complete a project.

6 "Person" means an individual, corporation, limited  
7 liability company, partnership, association, trust, or other  
8 entity or organization, including an authority.

9 "Rate" means a recurring charge.

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

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

1 the connection of power and other services.

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

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

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

26 "Wireless provider" means a wireless infrastructure

1 provider or a wireless services provider.

2 "Wireless services" means any services provided using  
3 licensed or unlicensed spectrum, whether at a fixed location or  
4 mobile, provided using wireless facilities.

5 "Wireless services provider" means a person who provides  
6 wireless services.

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

13 Section 15. Regulation of small wireless facilities.

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

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

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

24 (d) An authority may require an applicant to obtain one or  
25 more permits to collocate a small wireless facility, provided

1 that the permits are of general applicability. An authority  
2 shall receive applications for, process, and issue permits  
3 subject to the following requirements:

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

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

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

26 (B) the location where each proposed small

1 wireless facility or utility pole would be installed  
2 and photographs of the location and its immediate  
3 surroundings depicting the poles or structures on  
4 which each proposed small wireless facility would be  
5 mounted or location where utility poles or structures  
6 would be installed;

7 (C) specifications and drawings prepared by a  
8 structural engineer, as that term is defined in Section  
9 4 of the Structural Engineering Practice Act of 1989,  
10 for each proposed small wireless facility covered by  
11 the application as it is proposed to be installed;

12 (D) a proposed schedule for the installation and  
13 completion of each small wireless facility covered by  
14 the application, if approved; and

15 (E) certification that the collocation complies  
16 with paragraph (6) to the best of the applicant's  
17 knowledge.

18 (3) Subject to paragraph (6), an authority may not  
19 require the placement of small wireless facilities on any  
20 specific utility pole, or category of poles, or require  
21 multiple antenna systems on a single utility pole; however,  
22 with respect to an application for the collocation of a  
23 small wireless facility associated with a new utility pole,  
24 an authority may propose that the small wireless facility  
25 be collocated on an existing utility pole or existing  
26 wireless support structure within 50 feet of the proposed



1 collocation, which the applicant shall accept if it has the  
2 right to use the alternate structure on reasonable terms  
3 and conditions and the alternate location and structure  
4 does not impose technical limits or additional material  
5 costs as determined by the applicant.

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

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

24 (6) An authority may require that:

25 (A) the wireless provider's operation of the small  
26 wireless facilities in the right-of-way does not

1           interfere with the frequencies used by the authority's  
2           public safety communications;

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

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

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

25          (E) the wireless provider comply with generally  
26          applicable standards adopted by an authority for

1 construction in the rights-of-way; and

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

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

1 applicant to the authority. Processing deadlines are  
2 tolled from the time the authority sends the notice of  
3 incompleteness to the time the applicant provides the  
4 missing information.

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

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

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

22 (10) The time period for applications may be further  
23 tolled by:

24 (A) the express agreement in writing by both the  
25 applicant and the authority; or

26 (B) a local, State, or federal disaster

1 declaration or similar emergency that causes the  
2 delay.

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

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

1           (13) The duration of a permit shall be for a period of  
2 not less than 10 years, and the permit shall be renewed for  
3 equivalent durations unless the authority makes a finding  
4 that the small wireless facilities or the new or modified  
5 utility pole do not comply with the applicable codes or  
6 local code provisions or regulations in paragraphs (6) and  
7 (9).

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

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

23           (e) Application fees are subject to the following  
24 requirements:

25           (1) An authority may charge an application fee only if  
26 the fee is required for similar types of commercial

1 development within the authority's jurisdiction.

2 (2) An authority shall only charge fees for the actual,  
3 direct, and reasonable costs incurred by the authority  
4 relating to the granting or processing of an application.  
5 The fees shall be reasonably related in time to the  
6 incurring of such 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 \$350 for each small wireless facility addressed in the  
16 application.

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



1 may require a permit to work within rights-of-way for  
2 activities that affect traffic patterns or require lane  
3 closures. Any permits for work within rights-of-way shall be  
4 subject to the requirements provided in this Section.

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

1 meaning given to that term in Section 3-105 of the Public  
2 Utilities Act.

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

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

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

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

25 (3) An authority may charge an annual recurring rate to  
26 collocate a small wireless facility on an authority utility

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

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

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

1 for the collocation of small wireless facilities on such  
2 poles that comply with subparagraphs (A) through (D) of  
3 this paragraph (5).

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

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

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

1           Make-ready work, including any pole replacement, shall  
2           be completed within 60 days of written acceptance of  
3           the good-faith estimate by the applicant.  
4           Alternatively, if the authority determines that  
5           applicable codes or public safety regulations require  
6           the authority utility pole to be replaced to support  
7           the requested collocation, the authority may require  
8           the wireless provider to replace the authority utility  
9           pole.

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

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

1 provider.

2 (k) Nothing in this Section precludes an authority from  
3 adopting reasonable rules with respect to the removal of  
4 abandoned small wireless facilities. A small wireless facility  
5 that is not operated for a continuous period of 12 months shall  
6 be considered abandoned and the owner of the facility must  
7 remove the small wireless facility within 90 days after receipt  
8 of written notice from the authority notifying the owner of the  
9 abandonment. The notice shall be sent by certified or  
10 registered mail, return receipt requested, by the authority to  
11 the owner at the last known address of the owner.

12 (l) 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, the authority shall allow the collocating person to  
23 collocate on its poles at annual rates of no more than \$200 per  
24 year per utility pole, with rates to be determined upon final

1 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) During the period in which the wireless provider's  
19 facilities are located on the authority improvements or  
20 rights-of-way, the authority may require the wireless provider  
21 to carry, at the wireless provider's own cost and expense, the  
22 following insurance: (i) property insurance for its property's  
23 replacement cost against all risks; (ii) workers' compensation  
24 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.)".