



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB4009

Introduced 1/4/2021, by Sen. Suzy Glowiak Hilton

SYNOPSIS AS INTRODUCED:

50 ILCS 840/15

was 50 ILCS 835/15

50 ILCS 840/45 new

Amends the Small Wireless Facilities Deployment Act. Provides that a wireless provider may be required to provide the following additional information when seeking a permit to collocate small wireless facilities: (i) a written affidavit signed by a radio frequency engineer with specified certifications; (ii) a written report that analyzes acoustic levels for the small wireless facility and all associated equipment; (iii) information showing the small wireless facility has received any required review by the FCC under the National Environmental Policy Act; and (iv) a certified copy of the original easement documents and other supporting documentation demonstrating that the applicant has the right to install, mount, maintain, and remove a small wireless facility and associated equipment in specified circumstances. Provides that an authority may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 200 feet (rather than 100 feet) of the proposed collocation. In provisions prohibiting an authority from requiring an application, approval, or permit or requiring any fees or other charges from a communications service provider authorized to occupy the rights-of-way for the replacement of wireless facilities with wireless facilities that are substantially similar, clarifies when changes are not "substantially similar". Provides that an authority may adopt reasonable rules requiring providers to place above-ground small wireless facilities and associated equipment and to replace larger, more visually intrusive small wireless facilities with smaller, less visually intrusive facilities. Adds provisions concerning radio frequency compliance. Makes other changes. Effective immediately.

LRB101 21873 AWJ 72834 b

1 AN ACT concerning local government.

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

4 Section 5. The Small Wireless Facilities Deployment Act is
5 amended by changing Section 15 and adding Section 45 as
6 follows:

7 (50 ILCS 840/15) (was 50 ILCS 835/15)

8 (Section scheduled to be repealed on June 1, 2021)

9 Sec. 15. Regulation of small wireless facilities.

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

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

15 (c) Small wireless facilities shall be classified as
16 permitted uses and subject to administrative review in
17 conformance with this Act, except as provided in paragraph (5)
18 of subsection (d) of this Section regarding height exceptions
19 or variances, but not subject to zoning review or approval if
20 they are collocated (i) in rights-of-way in any zone, or (ii)
21 outside rights-of-way in property zoned exclusively for
22 commercial or industrial use.

23 (d) An authority may require an applicant to obtain one or

1 more permits to collocate a small wireless facility. An
2 authority shall receive applications for, process, and issue
3 permits 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 utility pole space for the authority on the
9 wireless provider's utility pole. An authority may reserve
10 space on authority utility poles for future public safety
11 uses or for the authority's electric utility uses, but a
12 reservation of space may not preclude the collocation of a
13 small wireless facility unless the authority reasonably
14 determines that the authority utility pole cannot
15 accommodate both uses.

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

24 (A) site specific structural integrity and, for an
25 authority utility pole, make-ready analysis prepared
26 by a structural engineer, as that term is defined in

1 Section 4 of the Structural Engineering Practice Act of
2 1989;

3 (B) the location where each proposed small
4 wireless facility or utility pole would be installed
5 and photographs of the location and its immediate
6 surroundings depicting the utility poles or structures
7 on which each proposed small wireless facility would be
8 mounted or location where utility poles or structures
9 would be installed;

10 (C) specifications and drawings prepared by a
11 structural engineer, as that term is defined in Section
12 4 of the Structural Engineering Practice Act of 1989,
13 for each proposed small wireless facility covered by
14 the application as it is proposed to be installed;

15 (D) the equipment type and model numbers for the
16 antennas and all other wireless equipment associated
17 with the small wireless facility;

18 (E) a proposed schedule for the installation and
19 completion of each small wireless facility covered by
20 the application, if approved; ~~and~~

21 (F) certification that the collocation complies
22 with paragraph (6) to the best of the applicant's
23 knowledge; ~~and~~

24 (G) a written affidavit signed by a radio frequency
25 engineer certifying: (i) the small wireless facility's
26 compliance with applicable FCC rules and regulations

1 relative to radio frequency emissions; (ii) technical
2 data, such as the frequencies in use, power output
3 levels and antenna specifications, reasonably
4 necessary to evaluate compliance with maximum
5 permissible exposure levels set by the FCC; and (iii) a
6 monitoring plan for the applicant's facility capable
7 of tracking and recording the daily amounts or levels
8 of radio frequency emissions produced by the equipment
9 in order to verify on an ongoing basis that the small
10 wireless facility will not exceed applicable FCC radio
11 frequency emissions. An authority may, in addition,
12 require a baseline test by a wireless provider, at the
13 wireless provider's sole cost and expense, of the radio
14 frequency emissions of a small wireless facility at the
15 time of initial activation, with the results to be
16 provided to the authority;

17 (H) a written report that analyzes acoustic levels
18 for the small wireless facility and all associated
19 equipment including, without limitation, all
20 environmental control units, sump pumps, temporary
21 backup power generators, and permanent backup power
22 generators in order to demonstrate compliance with
23 applicable authority noise regulations. The acoustic
24 analysis must be prepared and certified by an engineer
25 and include an analysis of the manufacturers'
26 specifications for all noise-emitting equipment and a

1 depiction of the proposed equipment relative to all
2 adjacent property lines. In lieu of a written report,
3 the applicant may submit evidence from the equipment
4 manufacturer that the ambient noise emitted from all
5 the proposed equipment will not, both individually and
6 cumulatively, exceed the applicable limits;

7 (I) information showing the small wireless
8 facility has received any required review, such as an
9 environmental assessment and review, by the FCC under
10 the National Environmental Policy Act or is exempt from
11 such requirements. If the applicant claims the small
12 wireless facility is exempt, it must state the basis
13 for the exemption and provide proof, including
14 supporting documents that establish that the facility
15 meets such exemption; and

16 (J) where installation is proposed in a
17 right-of-way that consists of a easement dedicated for
18 compatible use, a certified copy of the original
19 easement documents, and other supporting documentation
20 demonstrating that the applicant has the right to
21 install, mount, maintain, and remove a small wireless
22 facility and associated equipment in or on the easement
23 for the length of the permit. If the applicant is
24 claiming access to the easement as an assignee or
25 successor in interest, the applicant shall, in
26 addition, provide documents demonstrating that its

1 assigned or successor rights in the easement are
2 sufficient to allow it to install, mount, maintain, and
3 remove the small wireless facility and associated
4 equipment for the length of the permit.

5 (3) Subject to paragraph (6), an authority may not
6 require the placement of small wireless facilities on any
7 specific utility pole, or category of utility poles, or
8 require multiple antenna systems on a single utility pole;
9 however, with respect to an application for the collocation
10 of a small wireless facility associated with a new utility
11 pole, an authority may propose that the small wireless
12 facility be collocated on an existing utility pole or
13 existing wireless support structure within 200 ~~100~~ feet of
14 the proposed collocation, which the applicant shall accept
15 if it has the right to use the alternate structure on
16 reasonable terms and conditions and the alternate location
17 and structure does not impose technical limits or
18 additional material costs ~~as determined by the applicant.~~

19 The authority may require the applicant to provide a
20 written certification describing the property rights,
21 technical limits or material cost reasons the alternate
22 location does not satisfy the criteria in this paragraph
23 (3).

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

1 horizontal separation distances.

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

23 (6) An authority may require that:

24 (A) the wireless provider's operation of the small
25 wireless facilities does not interfere with the
26 frequencies used by a public safety agency for public

1 safety communications; a wireless provider shall
2 install small wireless facilities of the type and
3 frequency that will not cause unacceptable
4 interference with a public safety agency's
5 communications equipment; unacceptable interference
6 will be determined by and measured in accordance with
7 industry standards and the FCC's regulations
8 addressing unacceptable interference to public safety
9 spectrum or any other spectrum licensed by a public
10 safety agency; if a small wireless facility causes such
11 interference, and the wireless provider has been given
12 written notice of the interference by the public safety
13 agency, the wireless provider, at its own expense,
14 shall take all reasonable steps necessary to correct
15 and eliminate the interference, including, but not
16 limited to, powering down the small wireless facility
17 and later powering up the small wireless facility for
18 intermittent testing, if necessary; the authority may
19 terminate a permit for a small wireless facility based
20 on such interference if the wireless provider is not
21 making a good faith effort to remedy the problem in a
22 manner consistent with the abatement and resolution
23 procedures for interference with public safety
24 spectrum established by the FCC including 47 CFR 22.970
25 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR
26 90.675;

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

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

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

23 (E) the wireless provider comply with generally
24 applicable standards that are consistent with this Act
25 and adopted by an authority for construction and public
26 safety in the rights-of-way, including, but not

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

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

26 (G) the wireless provider comply with the

1 applicable codes and local code provisions or
2 regulations that concern public safety;

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

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

1 conformance with the requirements adopted pursuant to
2 the Illinois State Agency Historic Resources
3 Preservation Act or the National Historic Preservation
4 Act of 1966, 54 U.S.C. Section 300101 et seq., and the
5 regulations adopted to implement those laws.

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

19 (8) An authority shall process applications as
20 follows:

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

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

13 (B) an application to collocate a small wireless
14 facility that includes the installation of a new
15 utility pole shall be processed on a nondiscriminatory
16 basis and deemed approved if the authority fails to
17 approve or deny the application within 120 days;
18 however, if an applicant intends to proceed with the
19 permitted activity on a deemed approved basis, the
20 applicant must notify the authority in writing of its
21 intention to invoke the deemed approved remedy no
22 sooner than 105 days after the submission of a
23 completed application; the permit shall be deemed
24 approved on the latter of the 120th day after
25 submission of the complete application or the 10th day
26 after the receipt of the deemed approved notice by the

1 authority; the receipt of the deemed approved notice
2 shall not preclude the authority's denial of the permit
3 request within the time limits as provided under this
4 Act.

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

1 a deemed approved basis, which may be submitted with the
2 resubmitted application. Any subsequent review shall be
3 limited to the deficiencies cited in the denial. However,
4 this revised application cure does not apply if the cure
5 requires the review of a new location, new or different
6 structure to be collocated upon, new antennas, or other
7 wireless equipment associated with the small wireless
8 facility.

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

11 (A) the express agreement in writing by both the
12 applicant and the authority; or

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

16 (11) An applicant seeking to collocate small wireless
17 facilities within the jurisdiction of a single authority
18 shall be allowed, at the applicant's discretion, to file a
19 consolidated application and receive a single permit for
20 the collocation of up to 25 small wireless facilities if
21 the collocations each involve substantially the same type
22 of small wireless facility and substantially the same type
23 of structure. If an application includes multiple small
24 wireless facilities, the authority may remove small
25 wireless facility collocations from the application and
26 treat separately small wireless facility collocations for

1 which incomplete information has been provided or that do
2 not qualify for consolidated treatment or that are denied.
3 The authority may issue separate permits for each
4 collocation that is approved in a consolidated
5 application.

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

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

1 time of renewal.

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

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

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

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

26 (2) An authority may charge an application fee of

1 \$1,000 for each small wireless facility addressed in an
2 application that includes the installation of a new utility
3 for such collocation.

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

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

12 (f) An authority shall not require an application,
13 approval, or permit, or require any fees or other charges, from
14 a communications service provider authorized to occupy the
15 rights-of-way, for: (i) routine maintenance; (ii) the
16 replacement of wireless facilities with wireless facilities
17 that are substantially similar, the same size, or smaller if
18 the wireless provider notifies the authority at least 10 days
19 prior to the planned replacement and includes equipment
20 specifications for the replacement of equipment consistent
21 with the requirements of subparagraph (D) of paragraph (2) of
22 subsection (d) of this Section; or (iii) the installation,
23 placement, maintenance, operation, or replacement of micro
24 wireless facilities that are suspended on cables that are
25 strung between existing utility poles in compliance with
26 applicable safety codes. However, an authority may require a

1 permit to work within rights-of-way for activities that affect
2 traffic patterns or require lane closures. Wireless facilities
3 that vary significantly in design, increase power output,
4 frequency, bandwidth, or performance, change the location of
5 the small wireless facility upon the utility pole or wireless
6 support structure, increase signal strength, or make other
7 modifications in other key components are not substantially
8 similar and are subject to standard application processes,
9 permitting requirements, and fees.

10 (g) Nothing in this Act authorizes a person to collocate
11 small wireless facilities on: (1) property owned by a private
12 party or property owned or controlled by a unit of local
13 government that is not located within rights-of-way, subject to
14 subsection (j) of this Section, or a privately owned utility
15 pole or wireless support structure without the consent of the
16 property owner; (2) property owned, leased, or controlled by a
17 park district, forest preserve district, or conservation
18 district for public park, recreation, or conservation purposes
19 without the consent of the affected district, excluding the
20 placement of facilities on rights-of-way located in an affected
21 district that are under the jurisdiction and control of a
22 different unit of local government as provided by the Illinois
23 Highway Code; or (3) property owned by a rail carrier
24 registered under Section 18c-7201 of the Illinois Vehicle Code,
25 Metra Commuter Rail or any other public commuter rail service,
26 or an electric utility as defined in Section 16-102 of the

1 Public Utilities Act, without the consent of the rail carrier,
2 public commuter rail service, or electric utility. The
3 provisions of this Act do not apply to an electric or gas
4 public utility or such utility's wireless facilities if the
5 facilities are being used, developed, and maintained
6 consistent with the provisions of subsection (i) of Section
7 16-108.5 of the Public Utilities Act.

8 For the purposes of this subsection, "public utility" has
9 the meaning given to that term in Section 3-105 of the Public
10 Utilities Act. Nothing in this Act shall be construed to
11 relieve any person from any requirement (1) to obtain a
12 franchise or a State-issued authorization to offer cable
13 service or video service or (2) to obtain any required
14 permission to install, place, maintain, or operate
15 communications facilities, other than small wireless
16 facilities subject to this Act.

17 (h) Agreements between authorities and wireless providers
18 that relate to the collocation of small wireless facilities in
19 the right-of-way, including the collocation of small wireless
20 facilities on authority utility poles, that are in effect on
21 the effective date of this Act remain in effect for all small
22 wireless facilities collocated on the authority's utility
23 poles pursuant to applications submitted to the authority
24 before the effective date of this Act, subject to applicable
25 termination provisions. Such agreements entered into after the
26 effective date of the Act shall comply with the Act.

1 (i) An authority shall allow the collocation of small
2 wireless facilities on authority utility poles subject to the
3 following:

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

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

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

1 (4) Authorities or other persons owning or controlling
2 authority utility poles within the right-of-way shall
3 offer rates, fees, and other terms that comply with
4 subparagraphs (A) through (E) of this paragraph (4). Within
5 2 months after the effective date of this Act, an authority
6 or a person owning or controlling authority utility poles
7 shall make available, through ordinance or an authority
8 utility pole attachment agreement, license or other
9 agreement that makes available to wireless providers, the
10 rates, fees, and terms for the collocation of small
11 wireless facilities on authority utility poles that comply
12 with this Act and with subparagraphs (A) through (E) of
13 this paragraph (4). In the absence of such an ordinance or
14 agreement that complies with this Act, and until such a
15 compliant ordinance or agreement is adopted, wireless
16 providers may collocate small wireless facilities and
17 install utility poles under the requirements of this Act.

18 (A) The rates, fees, and terms must be
19 nondiscriminatory, competitively neutral, and
20 commercially reasonable, and may address, among other
21 requirements, the requirements in subparagraphs (A)
22 through (I) of paragraph (6) of subsection (d) of this
23 Section; subsections (e), (i), and (k) of this Section;
24 Section 30; and Section 35, and must comply with this
25 Act.

26 (B) For authority utility poles that support

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

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

1 the authority utility pole to be replaced to support
2 the requested collocation, the authority may require
3 the wireless provider to replace the authority utility
4 pole at the wireless provider's sole cost and expense.

5 (D) The authority shall not require more
6 make-ready work than required to meet applicable codes
7 or industry standards. Make-ready work may include
8 work needed to accommodate additional public safety
9 communications needs that are identified in a
10 documented and approved plan for the deployment of
11 public safety equipment as specified in paragraph (1)
12 of subsection (d) of this Section and included in an
13 existing or preliminary authority or public service
14 agency budget for attachment within one year of the
15 application. Fees for make-ready work, including any
16 authority utility pole replacement, shall not exceed
17 actual costs or the amount charged to communications
18 service providers for similar work and shall not
19 include any consultants' fees or expenses for
20 authority utility poles that do not support aerial
21 facilities used to provide communications services or
22 electric service. Make-ready work, including any pole
23 replacement, shall be completed within 60 days of
24 written acceptance of the good-faith estimate by the
25 wireless provider, at its sole cost and expense.

26 (E) A wireless provider that has an existing

1 agreement with the authority on the effective date of
2 the Act may accept the rates, fees, and terms that an
3 authority makes available under this Act for the
4 collocation of small wireless facilities or the
5 installation of new utility poles for the collocation
6 of small wireless facilities that are the subject of an
7 application submitted 2 or more years after the
8 effective date of the Act as provided in this paragraph
9 (4) by notifying the authority that it opts to accept
10 such rates, fees, and terms. The existing agreement
11 remains in effect, subject to applicable termination
12 provisions, for the small wireless facilities the
13 wireless provider has collocated on the authority's
14 utility poles pursuant to applications submitted to
15 the authority before the wireless provider provides
16 such notice and exercises its option under this
17 subparagraph.

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

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

1 adopting reasonable rules with respect to the removal of
2 abandoned small wireless facilities. A small wireless facility
3 that is not operated for a continuous period of 12 months shall
4 be considered abandoned and the owner of the facility must
5 remove the small wireless facility and any associated wireless
6 support structure or utility pole within 90 days after receipt
7 of written notice from the authority notifying the owner of the
8 abandonment. The requirement that a wireless support structure
9 or utility pole associated with an abandoned small wireless
10 facility be removed does not apply if the owner does not own or
11 otherwise have the right to remove the structure or pole, and
12 does not apply to authority-owned utility poles unless
13 requested by the authority. The notice shall be sent by
14 certified or registered mail, return receipt requested, by the
15 authority to the owner at the last known address of the owner.
16 If the small wireless facility and associated wireless support
17 structure or utility pole, if any, is not removed within 90
18 days of such notice, the authority may remove or cause the
19 removal of the ~~such~~ facility and associated structure or pole
20 pursuant to the terms of its pole attachment agreement for
21 authority utility poles or through whatever actions are
22 provided for abatement of nuisances or by other law for removal
23 and cost recovery. An authority may require a wireless provider
24 to provide written notice to the authority if it sells or
25 transfers small wireless facilities subject to this Act within
26 the jurisdictional boundary of the authority. Such notice shall

1 include the name and contact information of the new wireless
2 provider.

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

20 (m) Nothing in this Section precludes an authority from
21 adopting reasonable rules requiring providers, where feasible,
22 as new technology becomes available, and after receiving all
23 necessary permits and approvals required by the authority, to:

24 (1) Place above-ground small wireless facilities and
25 associated equipment, including accessory equipment that
26 has been mounted to a utility pole or wireless support

1 structure, below ground, at the wireless provider's sole
2 cost and expense.

3 (2) When replacing larger, more visually intrusive
4 small wireless facilities with smaller, less visually
5 intrusive facilities, to replace them with facilities with
6 the smallest visual profile, to the extent such facilities
7 are commercially available, technologically compatible
8 with the wireless provider's local network system, and
9 already used in the wireless provider's national or
10 regional wireless network system.

11 (Source: P.A. 100-585, eff. 6-1-18.)

12 (50 ILCS 840/45 new)

13 Sec. 45. Radio frequency compliance. Wireless providers
14 shall comply with the FCC's radio frequency emissions standards
15 at all times. Wireless providers may be required by an
16 ordinance of an authority to perform on-going monitoring of
17 small wireless facilities to ensure all equipment continues to
18 operate within allowable FCC radio frequency emission ranges
19 and to provide, on either a quarterly or annual basis, as
20 determined by an authority, a certification with supporting
21 information confirming whether all of the wireless provider's
22 small wireless facilities within an authority's jurisdiction
23 operated in compliance with all FCC radio frequency emission
24 limits during the quarterly or annual reporting period. The
25 certified quarterly or annual report shall, where required, be

1 delivered to the attention of the chief executive officer of
2 the authority by the 30th of the month following the end of the
3 calendar quarter or year, as applicable. A wireless provider
4 shall, upon request of an authority at any time, perform radio
5 frequency testing of all or specific small wireless facilities,
6 provide such testing results to the authority, and shall
7 promptly respond to all authority requests for information or
8 cooperation with respect to any of the foregoing. Authority
9 staff may, at an authority's option, accompany the wireless
10 provider or its agents in the performance of such testing. An
11 authority has the right, but not the obligation, to employ a
12 qualified radio frequency engineer to conduct periodic random
13 and unannounced testing of permitted small wireless facilities
14 to determine their compliance with all FCC radio frequency
15 emission limits. In the event the authority decides to perform
16 its own testing on small wireless facilities the authority may,
17 where it deems it necessary, request that the wireless provider
18 be present for the test. Any small wireless facility found not
19 to comply with FCC radio frequency emission standards shall be
20 immediately reported by the wireless provider to the FCC, with
21 a copy of such report sent at the same time to the chief
22 executive officer of the authority and shall be powered-down,
23 adjusted, repaired, replaced, shut off, or removed by the
24 wireless provider within 3 calendar days of the provider
25 becoming aware of the violation. Small wireless facilities that
26 exceed the FCC's radio frequency emissions standards are

1 declared a public nuisance and may be summarily abated by an
2 authority. Failure by a wireless provider to cure a violation
3 of the FCC radio frequency emission standards within 3 calendar
4 days may result in a revocation of the applicable small
5 wireless facility permit and a citation for maintaining a
6 public nuisance with a fine in the amount of \$750, with each
7 day of continued operation without cure being a separate
8 violation. If an authority determines through its own testing
9 that a small wireless facility is not in compliance with any
10 legal requirements or conditions related to radio frequency,
11 the wireless provider shall, in addition to the other
12 requirements of this Section, be responsible for all costs and
13 expenses incurred by the authority in connection with the
14 investigation, testing, enforcement, or remediation of such
15 noncompliance.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.