



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB2565

Introduced 2/19/2021, by Rep. Deanne M. Mazzochi

#### SYNOPSIS AS INTRODUCED:

50 ILCS 840/10	was 50 ILCS 835/10
50 ILCS 840/15	was 50 ILCS 835/15
50 ILCS 840/20	was 50 ILCS 835/20
50 ILCS 840/45 new	
50 ILCS 840/50 new	
50 ILCS 840/55 new	
50 ILCS 840/60 new	

Amends the Small Wireless Facilities Deployment Act. Adds a definition for "source of radio frequency emissions". Provides that permit information must be provided to the Illinois Environmental Protection Agency (IEPA). Provides that an authority may require specified information concerning fiber optic cable. Provides that an authority or the IEPA may deny a permit if a provider has failed to provide sufficient evidence that an increase in emissions is needed. Removes a provision limiting an authority's jurisdiction over facilities located in an interior structure or upon the site of any campus, stadium, or athletic facility not otherwise owned or controlled by the authority. Adds provisions relating to trespass, preservation of private property, and federal defenses; compliance and recordkeeping; setbacks; and notice.

LRB102 14488 AWJ 19841 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 Sections 10, 15, and 20 and by adding  
6 Sections 45, 50, 55, and 60 as follows:

7 (50 ILCS 840/10) (was 50 ILCS 835/10)

8 (Section scheduled to be repealed on June 1, 2021)

9 Sec. 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  
18 and is a wireless provider.

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

1 "Authority" means a unit of local government that has  
2 jurisdiction and control for use of public rights-of-way as  
3 provided by the Illinois Highway Code for placements within  
4 public rights-of-way or has zoning or land use control for  
5 placements not within public rights-of-way.

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

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

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

17 "Communications service provider" means a cable operator,  
18 as defined in 47 U.S.C. 522(5), as amended; a provider of  
19 information service, as defined in 47 U.S.C. 153(24), as  
20 amended; a telecommunications carrier, as defined in 47 U.S.C.  
21 153(51), as amended; or a wireless provider.

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

24 "Fee" means a one-time charge.

25 "Historic district" or "historic landmark" means a  
26 building, property, or site, or group of buildings,

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

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

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

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

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

1 entity or organization, including an authority.

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

8 "Rate" means a recurring charge.

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

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

1 services.

2 "Source of radio frequency emissions" or "emissions" means  
3 an antenna and all its associated equipment, other than fiber  
4 optic cable.

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

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

24 "Wireless infrastructure provider" means any person  
25 authorized to provide telecommunications service in the State  
26 that builds or installs wireless communication transmission

1 equipment, wireless facilities, wireless support structures,  
2 or utility poles and that is not a wireless services provider  
3 but is acting as an agent or a contractor for a wireless  
4 services provider for the application submitted to the  
5 authority.

6 "Wireless provider" means a wireless infrastructure  
7 provider or a wireless services provider.

8 "Wireless services" means any services provided to the  
9 general public, including a particular class of customers, and  
10 made available on a nondiscriminatory basis using licensed or  
11 unlicensed spectrum, whether at a fixed location or mobile,  
12 provided using wireless facilities.

13 "Wireless services provider" means a person who provides  
14 wireless services.

15 "Wireless support structure" means a freestanding  
16 structure, such as a monopole; tower, either guyed or  
17 self-supporting; billboard; or other existing or proposed  
18 structure designed to support or capable of supporting  
19 wireless facilities. "Wireless support structure" does not  
20 include a utility pole.

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

22 (50 ILCS 840/15) (was 50 ILCS 835/15)

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

24 Sec. 15. Regulation of small wireless facilities.

25 (a) This Section applies to activities of a wireless

1 provider within or outside rights-of-way.

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

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

13 (d) An authority may require an applicant to obtain one or  
14 more permits to collocate a ~~small~~ wireless facility.  
15 Regardless of whether the authority requires a permit, the  
16 information required for a permit application as described in  
17 this subsection shall be provided to the Illinois  
18 Environmental Protection Agency at the earlier of the time of  
19 the permit application or 90 days prior the earliest of  
20 construction or installation of the wireless facility.  
21 However, an authority may deny a permit, or the Illinois  
22 Environmental Protection Agency may deny a permit if no permit  
23 is required by the local authority, and may, within 60 days,  
24 notify the entity seeking to install, construct, or modify a  
25 proposed source of radio frequency emissions that it may not  
26 proceed if the authority or Agency finds that the provider has



1 failed to provide sufficient evidence that an increase in  
2 emissions is needed.

3 An authority shall receive applications for, process, and  
4 issue permits subject to the following requirements:

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

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

25 (A) site specific structural integrity and, for an  
26 authority utility pole, make-ready analysis prepared

1 by a structural engineer, as that term is defined in  
2 Section 4 of the Structural Engineering Practice Act  
3 of 1989;

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

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

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

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

23 (F) certification that the collocation complies  
24 with paragraph (6) to the best of the applicant's  
25 knowledge.

26 (3) Subject to paragraph (6), an authority may not

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

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

23 (5) An authority may limit the maximum height of a  
24 small wireless facility to 10 feet above the utility pole  
25 or wireless support structure on which the small wireless  
26 facility is collocated. Subject to any applicable waiver,

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

19 (6) An authority may require that:

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

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

23                 (B) the wireless provider comply with requirements  
24                 that are imposed by a contract between an authority  
25                 and a private property owner that concern design or  
26                 construction standards applicable to utility poles and

1 ground-mounted equipment located in the right-of-way;

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

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

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

1 nondiscriminatory requirements that are consistent  
2 with this Act and adopted by an authority regulating  
3 the location, size, surface area and height of small  
4 wireless facilities, or the abandonment and removal of  
5 small wireless facilities;

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

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

26 (H) the wireless provider comply with written

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

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



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

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

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

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

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

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

1 under this Act.

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

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

6 However, an authority may deny a permit if it finds  
7 that the provider failed to provide sufficient evidence  
8 that an increase in emissions is needed. The authority may  
9 require credible information prepared within the 12 months  
10 preceding the application, including, but not limited to,  
11 an analysis of the availability of fiber optic cable,  
12 which should include cable to the home, coverage  
13 deficiencies, and propagation maps.

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

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

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

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

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

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

23 (13) The duration of a permit shall be for a period of  
24 not less than 5 years, and the permit shall be renewed for  
25 equivalent durations unless the authority makes a finding  
26 that the small wireless facilities or the new or modified

1 utility pole do not comply with the applicable codes or  
2 local code provisions or regulations in paragraphs (6) and  
3 (9). If this Act is repealed as provided in Section 90,  
4 renewals of permits shall be subject to the applicable  
5 authority code provisions or regulations in effect at the  
6 time of renewal.

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

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

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

24 (1) An authority may charge an application fee of up  
25 to \$650 for an application to collocate a single small  
26 wireless facility on an existing utility pole or wireless

1 support structure and up to \$350 for each small wireless  
2 facility addressed in an application to collocate more  
3 than one small wireless facility on existing utility poles  
4 or wireless support structures.

5 (2) An authority may charge an application fee of  
6 \$1,000 for each small wireless facility addressed in an  
7 application that includes the installation of a new  
8 utility for such collocation.

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

13 (4) Within 2 months after the effective date of this  
14 Act, an authority shall make available application fees  
15 consistent with this subsection, through ordinance, or in  
16 a written schedule of permit fees adopted by the  
17 authority.

18 (f) An authority shall not require an application,  
19 approval, or permit, or require any fees or other charges,  
20 from a communications service provider authorized to occupy  
21 the 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 if  
24 the wireless provider notifies the authority at least 10 days  
25 prior to the planned replacement and includes equipment  
26 specifications for the replacement of equipment consistent

1 with the requirements of subparagraph (D) of paragraph (2) of  
2 subsection (d) of this Section; or (iii) the installation,  
3 placement, maintenance, operation, or replacement of micro  
4 wireless facilities that are suspended on cables that are  
5 strung between existing utility poles in compliance with  
6 applicable safety codes. However, an authority may require a  
7 permit to work within rights-of-way for activities that affect  
8 traffic patterns or require lane closures.

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



1 without the consent of the rail carrier, public commuter rail  
2 service, or electric utility. The provisions of this Act do  
3 not apply to an electric or gas public utility or such  
4 utility's wireless facilities if the facilities are being  
5 used, developed, and maintained consistent with the provisions  
6 of subsection (i) of Section 16-108.5 of the Public Utilities  
7 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  
11 to collocate a small wireless facility on an authority  
12 utility pole located in a right-of-way that equals (i)  
13 \$200 per year or (ii) the actual, direct, and reasonable  
14 costs related to the wireless provider's use of space on  
15 the authority utility pole. Rates for collocation on  
16 authority utility poles located outside of a right-of-way  
17 are not 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).  
5 Within 2 months after the effective date of this Act, an  
6 authority or a person owning or controlling authority  
7 utility poles shall make available, through ordinance or  
8 an authority utility pole attachment agreement, license or  
9 other agreement that makes available to wireless  
10 providers, the rates, fees, and terms for the collocation  
11 of small wireless facilities on authority utility poles  
12 that comply with this Act and with subparagraphs (A)  
13 through (E) of this paragraph (4). In the absence of such  
14 an ordinance or agreement that complies with this Act, and  
15 until such a compliant ordinance or agreement is adopted,  
16 wireless providers may collocate small wireless facilities  
17 and install utility poles under the requirements of this  
18 Act.

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

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

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

1           that applicable codes or public safety regulations  
2           require the authority utility pole to be replaced to  
3           support the requested collocation, the authority may  
4           require the wireless provider to replace the authority  
5           utility pole at the wireless provider's sole cost and  
6           expense.

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

1 wireless provider, at its sole cost and expense.

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

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

1 authority and the wireless 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  
8 receipt of written notice from the authority notifying the  
9 owner of the abandonment. The notice shall be sent by  
10 certified or registered mail, return receipt requested, by the  
11 authority to the owner at the last known address of the owner.  
12 If the small wireless facility is not removed within 90 days of  
13 such notice, the authority may remove or cause the removal of  
14 the such facility pursuant to the terms of its pole attachment  
15 agreement for authority utility poles or through whatever  
16 actions are provided for abatement of nuisances or by other  
17 law for removal and cost recovery. An authority may require a  
18 wireless provider to provide written notice to the authority  
19 if it sells or transfers small wireless facilities subject to  
20 this Act within the jurisdictional boundary of the authority.  
21 Such notice shall include the name and contact information of  
22 the new wireless provider.

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

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

15 (50 ILCS 840/20) (was 50 ILCS 835/20)

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

17 Sec. 20. Local authority. Subject to this Act and  
18 applicable federal law, an authority may continue to exercise  
19 zoning, land use, planning, and permitting authority within  
20 its territorial boundaries, including with respect to wireless  
21 support structures and utility poles; ~~except that no authority~~  
22 ~~shall have or exercise any jurisdiction or authority over the~~  
23 ~~design, engineering, construction, installation, or operation~~  
24 ~~of any small wireless facility located in an interior~~  
25 ~~structure or upon the site of any campus, stadium, or athletic~~



1 ~~facility not otherwise owned or controlled by the authority,~~  
2 ~~other than to comply with applicable codes and local code~~  
3 ~~provisions concerning public safety.~~ Nothing in this Act  
4 authorizes the State or any political subdivision, including  
5 an authority, to require wireless facility deployment or to  
6 regulate wireless services.

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

8 (50 ILCS 840/45 new)

9 Sec. 45. Trespass; property rights; federal defenses.  
10 Nothing in this Act is intended to permit trespass on  
11 privately-owned land or limit any individual property rights.  
12 All objections or defenses to the installation or operation of  
13 wireless facilities which are available under federal law are  
14 preserved and available in Illinois.

15 (50 ILCS 840/50 new)

16 Sec. 50. Compliance and recordkeeping.  
17 (a) In addition to any other enforcement mechanisms  
18 available, violations of radio frequency standards and limits,  
19 including those adopted by the FCC, shall be considered  
20 violations of subsection (a) of Section (9) of the Illinois  
21 Environmental Protection Act and may be enforced by the same  
22 persons and in the same manner as violations of subsection (a)  
23 of Section (9) of the Illinois Environmental Protection Act.  
24 The Illinois Environmental Protection Agency shall propose,

1 within 6 months of the effective date of this amendatory Act of  
2 the 102nd General Assembly, and the Illinois Pollution Control  
3 Board shall adopt, within 18 months of the effective date of  
4 this amendatory Act of the 102nd General Assembly, rules for  
5 monitoring radio frequency emissions, requiring sources of  
6 radio frequency emissions to report violations of radio  
7 frequency limits, rules for permitting sources of radio  
8 frequency emissions, and modifications of such sources. Such  
9 rules may define categories of permits and may exempt certain  
10 sources as appropriate on the basis of radiation impact.

11 (b) The Illinois Environmental Protection Agency shall  
12 maintain a publicly available database of permit applications,  
13 information required by paragraph (2) of subsection (d) of  
14 Section 15, non-confidential complaints, monitoring data, and  
15 enforcement complaints and resolutions.

16 (50 ILCS 840/55 new)

17 Sec. 55. Setbacks. The Illinois Environmental Protection  
18 Agency shall propose, within one year of the effective date of  
19 this amendatory Act of the 102nd General Assembly, and the  
20 Illinois Pollution Control Board shall adopt, within 2 years  
21 of the effective date of this amendatory Act of the 102nd  
22 General Assembly, rules specifying a minimum distance between  
23 sources of radio frequency emissions and residences, schools,  
24 childcare facilities, and hospitals or other buildings with  
25 sensitive populations. Such distance requirements may vary

1 based on the level of radiation in the area and such other  
2 metrics as are appropriate to protect health and the  
3 environment. Until such rules are effective all new small  
4 wireless facilities or modifications of such sources which  
5 would result in an increase of radiation shall be prohibited  
6 within 200 feet of residences, schools, childcare facilities,  
7 hospitals, and other buildings which house sensitive  
8 populations.

9 (50 ILCS 840/60 new)

10 Sec. 60. Notice. No person shall install or construct a  
11 new source of radio frequency emissions or modify an existing  
12 such source, so as to increase its radiation, without  
13 providing written notices, including contact information for  
14 itself and the authority or agency making permit decisions,  
15 and a web address at which the permit application or  
16 information required by section paragraph (2) of subsection  
17 (d) of Section 15 can be accessed to all residents and property  
18 owners within 250 feet of the proposed source or modification.  
19 Notice of intent to construct shall be given at the time of  
20 permit application or, if no permit is necessary, then no  
21 lesser than 90 days prior to the earliest proposed date on  
22 which construction or installation could begin. Notice of  
23 energizing shall be given in the same manner and no less than  
24 10 days prior to energizing the source or modification.