



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0041

Introduced 1/29/2021, 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.

LRB102 00014 AWJ 10014 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8 (Section scheduled to be repealed on June 1, 2021)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
5 require 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
19 wireless provider that requests to attach facilities to a
20 structure; however, a wireless provider may be required to
21 provide the following information when seeking a permit to
22 collocate small wireless facilities on a utility pole or
23 wireless 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
2 of 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
8 be mounted or location where utility poles or
9 structures would be installed;

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

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

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

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

25 (G) a written affidavit signed by a radio
26 frequency engineer certifying: (i) the small wireless

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

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

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

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

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

1 assignee or successor in interest, the applicant
2 shall, in addition, provide documents demonstrating
3 that its assigned or successor rights in the easement
4 are sufficient to allow it to install, mount,
5 maintain, and remove the small wireless facility and
6 associated equipment for the length of the permit.

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

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

1 limit the placement of small wireless facilities mounted
2 on a utility pole or a wireless support structure by
3 minimum horizontal separation distances.

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

26 (6) An authority may require that:

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

1 safety spectrum established by the FCC including 47
2 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672
3 through 47 CFR 90.675;

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

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

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

26 (E) the wireless provider comply with generally

1 applicable standards that are consistent with this Act
2 and adopted by an authority for construction and
3 public safety in the rights-of-way, including, but not
4 limited to, reasonable and nondiscriminatory wiring
5 and cabling requirements, grounding requirements,
6 utility pole extension requirements, and signage
7 limitations; and shall comply with reasonable and
8 nondiscriminatory requirements that are consistent
9 with this Act and adopted by an authority regulating
10 the location, size, surface area and height of small
11 wireless facilities, or the abandonment and removal of
12 small wireless facilities;

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

1 given to those terms in the National Electric Safety
2 Code as published by the Institute of Electrical and
3 Electronics Engineers;

4 (G) the wireless provider comply with the
5 applicable codes and local code provisions or
6 regulations that concern public safety;

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

17 (I) subject to subsection (c) of this Section, and
18 except for facilities excluded from evaluation for
19 effects on historic properties under 47 CFR
20 1.1307(a)(4), reasonable, technically feasible and
21 non-discriminatory design or concealment measures in a
22 historic district or historic landmark; any such
23 design or concealment measures, including restrictions
24 on a specific category of poles, may not have the
25 effect of prohibiting any provider's technology; such
26 design and concealment measures shall not be

1 considered a part of the small wireless facility for
2 purposes of the size restrictions of a small wireless
3 facility; this paragraph may not be construed to limit
4 an authority's enforcement of historic preservation in
5 conformance with the requirements adopted pursuant to
6 the Illinois State Agency Historic Resources
7 Preservation Act or the National Historic Preservation
8 Act of 1966, 54 U.S.C. Section 300101 et seq., and the
9 regulations adopted to implement those laws.

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

23 (8) An authority shall process applications as
24 follows:

25 (A) an application to collocate a small wireless
26 facility on an existing utility pole or wireless

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

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

1 completed application; the permit shall be deemed
2 approved on the latter of the 120th day after
3 submission of the complete application or the 10th day
4 after the receipt of the deemed approved notice by the
5 authority; the receipt of the deemed approved notice
6 shall not preclude the authority's denial of the
7 permit request within the time limits as provided
8 under this Act.

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

1 deny the revised application within 30 days after the
2 applicant resubmits the application or it is deemed
3 approved; however, the applicant must notify the authority
4 in writing of its intention to proceed with the permitted
5 activity on a deemed approved basis, which may be
6 submitted with the resubmitted application. Any subsequent
7 review shall be limited to the deficiencies cited in the
8 denial. However, this revised application cure does not
9 apply if the cure requires the review of a new location,
10 new or different structure to be collocated upon, new
11 antennas, or other wireless equipment associated with the
12 small wireless facility.

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

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

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

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

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

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

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

1 local code provisions or regulations in paragraphs (6) and
2 (9). If this Act is repealed as provided in Section 90,
3 renewals of permits shall be subject to the applicable
4 authority code provisions or regulations in effect at the
5 time of renewal.

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

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

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

23 (1) An authority may charge an application fee of up
24 to \$650 for an application to collocate a single small
25 wireless facility on an existing utility pole or wireless
26 support structure and up to \$350 for each small wireless

1 facility addressed in an application to collocate more
2 than one small wireless facility on existing utility poles
3 or wireless support structures.

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

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

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

17 (f) An authority shall not require an application,
18 approval, or permit, or require any fees or other charges,
19 from a communications service provider authorized to occupy
20 the rights-of-way, for: (i) routine maintenance; (ii) the
21 replacement of wireless facilities with wireless facilities
22 that are substantially similar, the same size, or smaller if
23 the wireless provider notifies the authority at least 10 days
24 prior to the planned replacement and includes equipment
25 specifications for the replacement of equipment consistent
26 with the requirements of subparagraph (D) of paragraph (2) of

1 subsection (d) of this Section; or (iii) the installation,
2 placement, maintenance, operation, or replacement of micro
3 wireless facilities that are suspended on cables that are
4 strung between existing utility poles in compliance with
5 applicable safety codes. However, an authority may require a
6 permit to work within rights-of-way for activities that affect
7 traffic patterns or require lane closures. Wireless facilities
8 that vary significantly in design, increase power output,
9 frequency, bandwidth, or performance, change the location of
10 the small wireless facility upon the utility pole or wireless
11 support structure, increase signal strength, or make other
12 modifications in other key components are not substantially
13 similar and are subject to standard application processes,
14 permitting requirements, and fees.

15 (g) Nothing in this Act authorizes a person to collocate
16 small wireless facilities on: (1) property owned by a private
17 party or property owned or controlled by a unit of local
18 government that is not located within rights-of-way, subject
19 to subsection (j) of this Section, or a privately owned
20 utility pole or wireless support structure without the consent
21 of the property owner; (2) property owned, leased, or
22 controlled by a park district, forest preserve district, or
23 conservation district for public park, recreation, or
24 conservation purposes without the consent of the affected
25 district, excluding the placement of facilities on
26 rights-of-way located in an affected district that are under

1 the jurisdiction and control of a different unit of local
2 government as provided by the Illinois Highway Code; or (3)
3 property owned by a rail carrier registered under Section
4 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or
5 any other public commuter rail service, or an electric utility
6 as defined in Section 16-102 of the Public Utilities Act,
7 without the consent of the rail carrier, public commuter rail
8 service, or electric utility. The provisions of this Act do
9 not apply to an electric or gas public utility or such
10 utility's wireless facilities if the facilities are being
11 used, developed, and maintained consistent with the provisions
12 of subsection (i) of Section 16-108.5 of the Public Utilities
13 Act.

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

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

1 the effective date of this Act remain in effect for all small
2 wireless facilities collocated on the authority's utility
3 poles pursuant to applications submitted to the authority
4 before the effective date of this Act, subject to applicable
5 termination provisions. Such agreements entered into after the
6 effective date of the Act shall comply with the Act.

7 (i) An authority shall allow the collocation of small
8 wireless facilities on authority utility poles subject to the
9 following:

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

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

16 (3) An authority may charge an annual recurring rate
17 to collocate a small wireless facility on an authority
18 utility pole located in a right-of-way that equals (i)
19 \$200 per year or (ii) the actual, direct, and reasonable
20 costs related to the wireless provider's use of space on
21 the authority utility pole. Rates for collocation on
22 authority utility poles located outside of a right-of-way
23 are not subject to these limitations. In any controversy
24 concerning the appropriateness of a cost-based rate for an
25 authority utility pole located within a right-of-way, the
26 authority shall have the burden of proving that the rate

1 does not exceed the actual, direct, and reasonable costs
2 for the applicant's proposed use of the authority utility
3 pole. Nothing in this paragraph (3) prohibits a wireless
4 provider and an authority from mutually agreeing to an
5 annual recurring rate of less than \$200 to collocate a
6 small wireless facility on an authority utility pole.

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

25 (A) The rates, fees, and terms must be
26 nondiscriminatory, competitively neutral, and

1 commercially reasonable, and may address, among other
2 requirements, the requirements in subparagraphs (A)
3 through (I) of paragraph (6) of subsection (d) of this
4 Section; subsections (e), (i), and (k) of this
5 Section; Section 30; and Section 35, and must comply
6 with this Act.

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

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

1 days after receipt of a complete application.
2 Make-ready work, including any authority utility pole
3 replacement, shall be completed within 60 days of
4 written acceptance of the good-faith estimate by the
5 applicant at the wireless provider's sole cost and
6 expense. Alternatively, if the authority determines
7 that applicable codes or public safety regulations
8 require the authority utility pole to be replaced to
9 support the requested collocation, the authority may
10 require the wireless provider to replace the authority
11 utility pole at the wireless provider's sole cost and
12 expense.

13 (D) The authority shall not require more
14 make-ready work than required to meet applicable codes
15 or industry standards. Make-ready work may include
16 work needed to accommodate additional public safety
17 communications needs that are identified in a
18 documented and approved plan for the deployment of
19 public safety equipment as specified in paragraph (1)
20 of subsection (d) of this Section and included in an
21 existing or preliminary authority or public service
22 agency budget for attachment within one year of the
23 application. Fees for make-ready work, including any
24 authority utility pole replacement, shall not exceed
25 actual costs or the amount charged to communications
26 service providers for similar work and shall not

1 include any consultants' fees or expenses for
2 authority utility poles that do not support aerial
3 facilities used to provide communications services or
4 electric service. Make-ready work, including any pole
5 replacement, shall be completed within 60 days of
6 written acceptance of the good-faith estimate by the
7 wireless provider, at its sole cost and expense.

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

26 (j) An authority shall authorize the collocation of small

1 wireless facilities on utility poles owned or controlled by
2 the authority that are not located within rights-of-way to the
3 same extent the authority currently permits access to utility
4 poles for other commercial projects or uses. The collocations
5 shall be subject to reasonable and nondiscriminatory rates,
6 fees, and terms as provided in an agreement between the
7 authority and the wireless provider.

8 (k) Nothing in this Section precludes an authority from
9 adopting reasonable rules with respect to the removal of
10 abandoned small wireless facilities. A small wireless facility
11 that is not operated for a continuous period of 12 months shall
12 be considered abandoned and the owner of the facility must
13 remove the small wireless facility and any associated wireless
14 support structure or utility pole within 90 days after receipt
15 of written notice from the authority notifying the owner of
16 the abandonment. The requirement that a wireless support
17 structure or utility pole associated with an abandoned small
18 wireless facility be removed does not apply if the owner does
19 not own or otherwise have the right to remove the structure or
20 pole, and does not apply to authority-owned utility poles
21 unless requested by the authority. The notice shall be sent by
22 certified or registered mail, return receipt requested, by the
23 authority to the owner at the last known address of the owner.
24 If the small wireless facility and associated wireless support
25 structure or utility pole, if any, is not removed within 90
26 days of such notice, the authority may remove or cause the

1 removal of the ~~such~~ facility and associated structure or pole
2 pursuant to the terms of its pole attachment agreement for
3 authority utility poles or through whatever actions are
4 provided for abatement of nuisances or by other law for
5 removal and cost recovery. An authority may require a wireless
6 provider to provide written notice to the authority if it
7 sells or transfers small wireless facilities subject to this
8 Act within the jurisdictional boundary of the authority. Such
9 notice shall include the name and contact information of the
10 new wireless provider.

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

1 maintain service from that location.

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

6 (1) Place above-ground small wireless facilities and
7 associated equipment, including accessory equipment that
8 has been mounted to a utility pole or wireless support
9 structure, below ground, at the wireless provider's sole
10 cost and expense.

11 (2) When replacing larger, more visually intrusive
12 small wireless facilities with smaller, less visually
13 intrusive facilities, to replace them with facilities with
14 the smallest visual profile, to the extent such facilities
15 are commercially available, technologically compatible
16 with the wireless provider's local network system, and
17 already used in the wireless provider's national or
18 regional wireless network system.

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

20 (50 ILCS 840/45 new)

21 Sec. 45. Radio frequency compliance. Wireless providers
22 shall comply with the FCC's radio frequency emissions
23 standards at all times. Wireless providers may be required by
24 an ordinance of an authority to perform on-going monitoring of
25 small wireless facilities to ensure all equipment continues to

1 operate within allowable FCC radio frequency emission ranges
2 and to provide, on either a quarterly or annual basis, as
3 determined by an authority, a certification with supporting
4 information confirming whether all of the wireless provider's
5 small wireless facilities within an authority's jurisdiction
6 operated in compliance with all FCC radio frequency emission
7 limits during the quarterly or annual reporting period. The
8 certified quarterly or annual report shall, where required, be
9 delivered to the attention of the chief executive officer of
10 the authority by the 30th of the month following the end of the
11 calendar quarter or year, as applicable. A wireless provider
12 shall, upon request of an authority at any time, perform radio
13 frequency testing of all or specific small wireless
14 facilities, provide such testing results to the authority, and
15 shall promptly respond to all authority requests for
16 information or cooperation with respect to any of the
17 foregoing. Authority staff may, at an authority's option,
18 accompany the wireless provider or its agents in the
19 performance of such testing. An authority has the right, but
20 not the obligation, to employ a qualified radio frequency
21 engineer to conduct periodic random and unannounced testing of
22 permitted small wireless facilities to determine their
23 compliance with all FCC radio frequency emission limits. In
24 the event the authority decides to perform its own testing on
25 small wireless facilities the authority may, where it deems it
26 necessary, request that the wireless provider be present for

1 the test. Any small wireless facility found not to comply with
2 FCC radio frequency emission standards shall be immediately
3 reported by the wireless provider to the FCC, with a copy of
4 such report sent at the same time to the chief executive
5 officer of the authority and shall be powered-down, adjusted,
6 repaired, replaced, shut off, or removed by the wireless
7 provider within 3 calendar days of the provider becoming aware
8 of the violation. Small wireless facilities that exceed the
9 FCC's radio frequency emissions standards are declared a
10 public nuisance and may be summarily abated by an authority.
11 Failure by a wireless provider to cure a violation of the FCC
12 radio frequency emission standards within 3 calendar days may
13 result in a revocation of the applicable small wireless
14 facility permit and a citation for maintaining a public
15 nuisance with a fine in the amount of \$750, with each day of
16 continued operation without cure being a separate violation.
17 If an authority determines through its own testing that a
18 small wireless facility is not in compliance with any legal
19 requirements or conditions related to radio frequency, the
20 wireless provider shall, in addition to the other requirements
21 of this Section, be responsible for all costs and expenses
22 incurred by the authority in connection with the
23 investigation, testing, enforcement, or remediation of such
24 noncompliance.

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.