



Rep. Brent Hassert

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09400HB3183ham001

LRB094 07387 AJ0 43742 a

1 AMENDMENT TO HOUSE BILL 3183

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3183 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing  
5 Section 5-12001.1 as follows:

6 (55 ILCS 5/5-12001.1)

7 Sec. 5-12001.1. Authority to regulate certain specified  
8 facilities of a telecommunications carrier and to regulate,  
9 pursuant to subsections (a) through (g), AM broadcast towers  
10 and facilities.

11 (a) Notwithstanding any other Section in this Division, the  
12 county board or board of county commissioners of any county  
13 shall have the power to regulate the location of the  
14 facilities, as defined in subsection (c), of a  
15 telecommunications carrier or AM broadcast station established  
16 outside the corporate limits of cities, villages, and  
17 incorporated towns that have municipal zoning ordinances in  
18 effect. The power shall only be exercised to the extent and in  
19 the manner set forth in this Section.

20 (b) The provisions of this Section shall not abridge any  
21 rights created by or authority confirmed in the federal  
22 Telecommunications Act of 1996, P.L. 104-104.

23 (c) As used in this Section, unless the context otherwise  
24 requires:

1 (1) "county jurisdiction area" means those portions of  
2 a county that lie outside the corporate limits of cities,  
3 villages, and incorporated towns that have municipal  
4 zoning ordinances in effect;

5 (2) "county board" means the county board or board of  
6 county commissioners of any county;

7 (3) "residential zoning district" means a zoning  
8 district that is designated under a county zoning ordinance  
9 and is zoned predominantly for residential uses;

10 (4) "non-residential zoning district" means the county  
11 jurisdiction area of a county, except for those portions  
12 within a residential zoning district;

13 (5) "residentially zoned lot" means a zoning lot in a  
14 residential zoning district;

15 (6) "non-residentially zoned lot" means a zoning lot in  
16 a non-residential zoning district;

17 (7) "telecommunications carrier" means a  
18 telecommunications carrier as defined in the Public  
19 Utilities Act as of January 1, 1997;

20 (8) "facility" means that part of the signal  
21 distribution system used or operated by a  
22 telecommunications carrier or AM broadcast station under a  
23 license from the FCC consisting of a combination of  
24 improvements and equipment including (i) one or more  
25 antennas, (ii) a supporting structure and the hardware by  
26 which antennas are attached; (iii) equipment housing; and  
27 (iv) ancillary equipment such as signal transmission  
28 cables and miscellaneous hardware;

29 (9) "FAA" means the Federal Aviation Administration of  
30 the United States Department of Transportation;

31 (10) "FCC" means the Federal Communications  
32 Commission;

33 (11) "antenna" means an antenna device by which radio  
34 signals are transmitted, received, or both;

1           (12) "supporting structure" means a structure, whether  
2 an antenna tower or another type of structure, that  
3 supports one or more antennas as part of a facility;

4           (13) "qualifying structure" means a supporting  
5 structure that is (i) an existing structure, if the height  
6 of the facility, including the structure, is not more than  
7 15 feet higher than the structure just before the facility  
8 is installed, or (ii) a substantially similar,  
9 substantially same-location replacement of an existing  
10 structure, if the height of the facility, including the  
11 replacement structure, is not more than 15 feet higher than  
12 the height of the existing structure just before the  
13 facility is installed;

14           (14) "equipment housing" means a combination of one or  
15 more equipment buildings or enclosures housing equipment  
16 that operates in conjunction with the antennas of a  
17 facility, and the equipment itself;

18           (15) "height" of a facility means the total height of  
19 the facility's supporting structure and any antennas that  
20 will extend above the top of the supporting structure;  
21 however, if the supporting structure's foundation extends  
22 more than 3 feet above the uppermost ground level along the  
23 perimeter of the foundation, then each full foot in excess  
24 of 3 feet shall be counted as an additional foot of  
25 facility height. The height of a facility's supporting  
26 structure is to be measured from the highest point of the  
27 supporting structure's foundation;

28           (16) "facility lot" means the zoning lot on which a  
29 facility is or will be located;

30           (17) "principal residential building" has its common  
31 meaning but shall not include any building under the same  
32 ownership as the land of the facility lot. "Principal  
33 residential building" shall not include any structure that  
34 is not designed for human habitation;

1           (18) "horizontal separation distance" means the  
2 distance measured from the center of the base of the  
3 facility's supporting structure to the point where the  
4 ground meets a vertical wall of a principal residential  
5 building; ~~and~~

6           (19) "lot line set back distance" means the distance  
7 measured from the center of the base of the facility's  
8 supporting structure to the nearest point on the common lot  
9 line between the facility lot and the nearest residentially  
10 zoned lot. If there is no common lot line, the measurement  
11 shall be made to the nearest point on the lot line of the  
12 nearest residentially zoned lot without deducting the  
13 width of any intervening right of way; and ~~and~~

14           (20) "AM broadcast station" means a facility and one or  
15 more towers for the purpose of transmitting communication  
16 in the 540 kHz to 1700 kHz band for public reception  
17 authorized by the FCC.

18           (d) In choosing a location for a facility, a  
19 telecommunications carrier or AM broadcast station shall  
20 consider the following:

21           (1) A non-residentially zoned lot is the most desirable  
22 location.

23           (2) A residentially zoned lot that is not used for  
24 residential purposes is the second most desirable  
25 location.

26           (3) A residentially zoned lot that is 2 acres or more  
27 in size and is used for residential purposes is the third  
28 most desirable location.

29           (4) A residentially zoned lot that is less than 2 acres  
30 in size and is used for residential purposes is the least  
31 desirable location.

32           The size of a lot shall be the lot's gross area in square  
33 feet without deduction of any unbuildable or unusable land, any  
34 roadway, or any other easement.

1 (e) In designing a facility, a telecommunications carrier  
2 or AM broadcast station shall consider the following  
3 guidelines:

4 (1) No building or tower that is part of a facility  
5 should encroach onto any recorded easement prohibiting the  
6 encroachment unless the grantees of the easement have given  
7 their approval.

8 (2) Lighting should be installed for security and  
9 safety purposes only. Except with respect to lighting  
10 required by the FCC or FAA, all lighting should be shielded  
11 so that no glare extends substantially beyond the  
12 boundaries of a facility.

13 (3) No facility should encroach onto an existing septic  
14 field.

15 (4) Any facility located in a special flood hazard area  
16 or wetland should meet the legal requirements for those  
17 lands.

18 (5) Existing trees more than 3 inches in diameter  
19 should be preserved if reasonably feasible during  
20 construction. If any tree more than 3 inches in diameter is  
21 removed during construction a tree 3 inches or more in  
22 diameter of the same or a similar species shall be planted  
23 as a replacement if reasonably feasible. Tree diameter  
24 shall be measured at a point 3 feet above ground level.

25 (6) If any elevation of a facility faces an existing,  
26 adjoining residential use within a residential zoning  
27 district, low maintenance landscaping should be provided  
28 on or near the facility lot to provide at least partial  
29 screening of the facility. The quantity and type of that  
30 landscaping should be in accordance with any county  
31 landscaping regulations of general applicability, except  
32 that paragraph (5) of this subsection (e) shall control  
33 over any tree-related regulations imposing a greater  
34 burden.

1           (7) Fencing should be installed around a facility. The  
2 height and materials of the fencing should be in accordance  
3 with any county fence regulations of general  
4 applicability.

5           (8) Any building that is part of a facility located  
6 adjacent to a residentially zoned lot should be designed  
7 with exterior materials and colors that are reasonably  
8 compatible with the residential character of the area.

9           (f) The following provisions shall apply to all facilities  
10 established in any county jurisdiction area (i) after the  
11 effective date of the amendatory Act of 1997 with respect to  
12 telecommunications carriers and (ii) after the effective date  
13 of this amendatory Act of the 94th General Assembly with  
14 respect to AM broadcast stations:

15           (1) Except as provided in this Section, no yard or set  
16 back regulations shall apply to or be required for a  
17 facility.

18           (2) A facility may be located on the same zoning lot as  
19 one or more other structures or uses without violating any  
20 ordinance or regulation that prohibits or limits multiple  
21 structures, buildings, or uses on a zoning lot.

22           (3) No minimum lot area, width, or depth shall be  
23 required for a facility, and unless the facility is to be  
24 manned on a regular, daily basis, no off-street parking  
25 spaces shall be required for a facility. If the facility is  
26 to be manned on a regular, daily basis, one off-street  
27 parking space shall be provided for each employee regularly  
28 at the facility. No loading facilities are required.

29           (4) No portion of a facility's supporting structure or  
30 equipment housing shall be less than 15 feet from the front  
31 lot line of the facility lot or less than 10 feet from any  
32 other lot line.

33           (5) No bulk regulations or lot coverage, building  
34 coverage, or floor area ratio limitations shall be applied

1 to a facility or to any existing use or structure  
2 coincident with the establishment of a facility. Except as  
3 provided in this Section, no height limits or restrictions  
4 shall apply to a facility.

5 (6) A county's review of a building permit application  
6 for a facility shall be completed within 30 days. If a  
7 decision of the county board is required to permit the  
8 establishment of a facility, the county's review of the  
9 application shall be simultaneous with the process leading  
10 to the county board's decision.

11 (7) The improvements and equipment comprising the  
12 facility may be wholly or partly freestanding or wholly or  
13 partly attached to, enclosed in, or installed in or on a  
14 structure or structures.

15 (8) Any public hearing authorized under this Section  
16 shall be conducted in a manner determined by the county  
17 board. Notice of any such public hearing shall be published  
18 at least 15 days before the hearing in a newspaper of  
19 general circulation published in the county.

20 (9) Any decision regarding a facility by the county  
21 board or a county agency or official shall be supported by  
22 written findings of fact. The circuit court shall have  
23 jurisdiction to review the reasonableness of any adverse  
24 decision and the plaintiff shall bear the burden of proof,  
25 but there shall be no presumption of the validity of the  
26 decision.

27 (g) The following provisions shall apply to all facilities  
28 established (i) after the effective date of this amendatory Act  
29 of 1997 with respect to telecommunications carriers and (ii)  
30 after the effective date of this amendatory Act of the 94th  
31 General Assembly with respect to AM broadcast stations in the  
32 county jurisdiction area of any county with a population of  
33 less than 180,000:

34 (1) A facility is permitted if its supporting structure

1 is a qualifying structure or if both of the following  
2 conditions are met:

3 (A) the height of the facility shall not exceed 200  
4 feet, except that if a facility is located more than  
5 one and one-half miles from the corporate limits of any  
6 municipality with a population of 25,000 or more the  
7 height of the facility shall not exceed 350 feet; and

8 (B) the horizontal separation distance to the  
9 nearest principal residential building shall not be  
10 less than the height of the supporting structure;  
11 except that if the supporting structure exceeds 99 feet  
12 in height, the horizontal separation distance to the  
13 nearest principal residential building shall be at  
14 least 100 feet or 80% of the height of the supporting  
15 structure, whichever is greater. Compliance with this  
16 paragraph shall only be evaluated as of the time that a  
17 building permit application for the facility is  
18 submitted. If the supporting structure is not an  
19 antenna tower this paragraph is satisfied.

20 (2) Unless a facility is permitted under paragraph (1)  
21 of this subsection (g), a facility can be established only  
22 after the county board gives its approval following  
23 consideration of the provisions of paragraph (3) of this  
24 subsection (g). The county board may give its approval  
25 after one public hearing on the proposal, but only by the  
26 favorable vote of a majority of the members present at a  
27 meeting held no later than 75 days after submission of a  
28 complete application by the telecommunications carrier. If  
29 the county board fails to act on the application within 75  
30 days after its submission, the application shall be deemed  
31 to have been approved. No more than one public hearing  
32 shall be required.

33 (3) For purposes of paragraph (2) of this subsection  
34 (g), the following siting considerations, but no other



1 matter, shall be considered by the county board or any  
2 other body conducting the public hearing:

3 (A) the criteria in subsection (d) of this Section;

4 (B) whether a substantial adverse effect on public  
5 safety will result from some aspect of the facility's  
6 design or proposed construction, but only if that  
7 aspect of design or construction is modifiable by the  
8 applicant;

9 (C) the benefits to be derived by the users of the  
10 services to be provided or enhanced by the facility and  
11 whether public safety and emergency response  
12 capabilities would benefit by the establishment of the  
13 facility;

14 (D) the existing uses on adjacent and nearby  
15 properties; and

16 (E) the extent to which the design of the proposed  
17 facility reflects compliance with subsection (e) of  
18 this Section.

19 (4) On judicial review of an adverse decision, the  
20 issue shall be the reasonableness of the county board's  
21 decision in light of the evidence presented on the siting  
22 considerations and the well-reasoned recommendations of  
23 any other body that conducts the public hearing.

24 (h) The following provisions shall apply to all facilities  
25 established after the effective date of this amendatory Act of  
26 1997 in the county jurisdiction area of any county with a  
27 population of 180,000 or more. A facility is permitted in any  
28 zoning district subject to the following:

29 (1) A facility shall not be located on a lot under  
30 paragraph (4) of subsection (d) unless a variation is  
31 granted by the county board under paragraph (4) of this  
32 subsection (h).

33 (2) Unless a height variation is granted by the county  
34 board, the height of a facility shall not exceed 75 feet if

1 the facility will be located in a residential zoning  
2 district or 200 feet if the facility will be located in a  
3 non-residential zoning district. However, the height of a  
4 facility may exceed the height limit in this paragraph, and  
5 no height variation shall be required, if the supporting  
6 structure is a qualifying structure.

7 (3) The improvements and equipment of the facility  
8 shall be placed to comply with the requirements of this  
9 paragraph at the time a building permit application for the  
10 facility is submitted. If the supporting structure is an  
11 antenna tower other than a qualifying structure then (i) if  
12 the facility will be located in a residential zoning  
13 district the lot line set back distance to the nearest  
14 residentially zoned lot shall be at least 50% of the height  
15 of the facility's supporting structure or (ii) if the  
16 facility will be located in a non-residential zoning  
17 district the horizontal separation distance to the nearest  
18 principal residential building shall be at least equal to  
19 the height of the facility's supporting structure.

20 (4) The county board may grant variations for any of  
21 the regulations, conditions, and restrictions of this  
22 subsection (h), after one public hearing on the proposed  
23 variations, by a favorable vote of a majority of the  
24 members present at a meeting held no later than 75 days  
25 after submission of an application by the  
26 telecommunications carrier. If the county board fails to  
27 act on the application within 75 days after submission, the  
28 application shall be deemed to have been approved. In its  
29 consideration of an application for variations, the county  
30 board, and any other body conducting the public hearing,  
31 shall consider the following, and no other matters:

32 (A) whether, but for the granting of a variation,  
33 the service that the telecommunications carrier seeks  
34 to enhance or provide with the proposed facility will

1 be less available, impaired, or diminished in quality,  
2 quantity, or scope of coverage;

3 (B) whether the conditions upon which the  
4 application for variations is based are unique in some  
5 respect or, if not, whether the strict application of  
6 the regulations would result in a hardship on the  
7 telecommunications carrier;

8 (C) whether a substantial adverse effect on public  
9 safety will result from some aspect of the facility's  
10 design or proposed construction, but only if that  
11 aspect of design or construction is modifiable by the  
12 applicant;

13 (D) whether there are benefits to be derived by the  
14 users of the services to be provided or enhanced by the  
15 facility and whether public safety and emergency  
16 response capabilities would benefit by the  
17 establishment of the facility; and

18 (E) the extent to which the design of the proposed  
19 facility reflects compliance with subsection (e) of  
20 this Section.

21 No more than one public hearing shall be required.

22 (5) On judicial review of an adverse decision, the  
23 issue shall be the reasonableness of the county board's  
24 decision in light of the evidence presented and the  
25 well-reasoned recommendations of any other body that  
26 conducted the public hearing.

27 (Source: P.A. 90-522, eff. 1-1-98.)

28 Section 99. Effective date. This Act takes effect upon  
29 becoming law."